

At the City Council Investigation.

CRAWFORD AND SCOVIL TESTIFY

Council Investigation Goes Forward According to Rules of Court.

Baker Retarded by Attorneys' Objections Upheld by Council.

CRAWFORD IS VIGOROUS.

Campaign Fund Matters, He Tells Solicitor Baker, Are "None of His Business"—Says He Guesses He Was "the Whole Push" in the Republican Committee—Scovil Declines to Answer Questions "to Play Into the Hands of That Politician, Tom

L. Johnson"—Many Questions Elicit No Replies.

After an afternoon session at which considerable latitude was given Solicitor Baker in asking questions of witnesses testifying in the councilmanic bribery investigation, every possible advantage was taken by attorneys representing the councilmen at the night session to hold the examination according to a strict interpretation of the rules of criminal procedure. Question after question put by the solicitor brought objections, chiefly from Attorney Collister, which referred to the council were invariably sustained by votes of 17 to 15 and 18 to 14.

In making the objections Attorney Collister emphatically insisted his contentions were based upon the rules adopted by the council. "Thomas E. Croke is now being tried. Let us not beat around the bush. If you have any information relating to the charges concerning Mr. Croke let us have them. If you have not be frank and admit it and let us go on with the other cases." This in substance Attorney Collister repeated a dozen times in interrupting Solicitor Baker's attempts at probing.

"I have repeatedly stated my desires in the matter. This ought to be an investigation instead of a trial. However, you will always find me calm in the face of repeated objections," said Baker.

Samuel Scovil, vice president and treasurer of the Cleveland Electric Illuminating Co., Edward P. Strong, legal adviser and a former employee of the illuminating company, and W. J. Crawford, as witnesses, were the central figures of the sessions yesterday.

Councilmen Hitchens, Horner and Wright were called to the stand. They were questioned briefly concerning meetings of Republican members of the council to discuss councilmanic questions. All admitted that the annexation question had been discussed at two or three meetings, but no testimony of importance developed.

There was a perceptible stir when Solicitor Baker asked if W. J. Crawford was willing to testify in spite of the fact that he had not been subpoenaed. Mr. Crawford was seated just outside the rail in the council chamber.

"The report has gone out that I was thrown out of this chamber this afternoon, but I am not going to throw any obstacles in the way of this investigation. Sure I'll testify," said Crawford loudly.

The way was cleared and as Crawford took the oath he stood on his tip toes. As he seated himself in the witness chair he lighted a big black cigar.

"Mr. Crawford, you are treasurer of the Republican committee, are you?" Solicitor Baker asked.

"No," fairly thundered the witness. "I was chairman."

"Did the Cleveland Electric Illuminating Co. make any contributions to the Republican campaign fund?"

"I wish they had made one, but they didn't."

"What was contributed by Mr. Parmely?"

"None of your business."

"Have you the books showing the campaign contributions?"

"No."

"Where are they?"

"I don't know."

"Who is the treasurer of the committee?"

"Well, now you have got me there. I don't know. The fact is I guess I was the whole 'push.'"

"Mr. Parmely is president of your company, is he?" continued Solicitor Baker.

"Very proud of it," the witness replied.

"Do you suppose Mr. Parmely could be reached and that he would come to this city if sent for by this council?"

"I think he could if he was foolish enough to pay railway fare and fritter away his time."

"Well, where could he be reached the quickest?"

"Either in New York or Washington."

"Mr. Crawford, did you discuss the question of the annexation of South Brooklyn or the municipal lighting plant proposition with any members of the present council prior to their election?"

"No," said Crawford emphatically.

"You discussed these questions with Mr. Scovill?"

"Yes, once or twice."

"But Mr. Scovill has said that the matters were discussed two or three times a week," said the solicitor.

"Well, anything he says goes."

"What was your particular interest in the discussions?"

"Anything to beat the Democratic party."

"Did you ever have any talk with Mr. Scovill at Republican headquarters?"

"No; too many detectives around."

"Have you talked with any of the fifteen Republican members under charges concerning South Brooklyn annexation matters?"

"No, sir."

"Did you do anything tending to influence the situation, that is to influence the vote?"

"No, no."

"Then your entire interest was confined to talks with Mr. Scovill?"

"That is what I said, didn't I?" replied the witness.

"Did you make any special effort to secure the election of Mr. Croke?"

"No more than for all the boys."

"Isn't it a fact that all the campaign contributions would appear on books under the control of E. W. Doty except the contributions made by you personally?"

"Yes, I guess so."

"Do I have to have the sergeant-at-arms escort me from the room now," asked Crawford when he was excused.

After having been on the stand nearly two hours in the afternoon Samuel Scovill was recalled at the opening of the evening session. He was asked to name the directors of the illuminating company and complied. He was then asked the names of the principal stockholders and absolutely refused to answer.

After a moment's pause Mr. Scovill said he had been subpoenaed to tell what he knew about the action of the members of the council with regard to the annexation of South Brooklyn, what he knew about contributions to the Republican campaign funds and to bring in books and documents of the company.

"And I shall positively refuse to answer any other questions if I answer questions concerning the things enumerated in the subpoena," said Scovill. "I have my attorney here in the person of Mr. Hogsett to protect my interests. I don't propose to play into the hands of the politician sitting there, Tom L. Johnson."

"Mr. Scovill, what knowledge have you of any fund belonging to the illuminating company and kept in the Society for Savings?" asked Mr. Baker.

The witness said he knew nothing of any such fund. He was then dismissed.

Solicitor Baker then announced that the directors of the illuminating company would be immediately subpoenaed as witnesses in addition to E. W. Doty.

In the examination of Mr. Scovill during the afternoon Solicitor Baker led up to the sending of a contesting delegation to

the Democratic state convention from this county in 1903. He asked the witness what he knew about the payment of the expenses of the delegation.

"I am not going to answer all these questions," replied Scovill. "I don't seem to have any protection here, but I know one thing, and that is I am not going to be made a tool of by Tom Johnson. I am not going to tell the story of my life. Mayor Johnson met me in New York recently and told me he was going to get

Two Sessions Today.

The investigation will continue this afternoon at 1:30 and tonight at 7:30. Nominally the case of Thomas E. Croke is still before the council.

Solicitor Baker made an earnest plea for only one session daily. Croke argued emphatically for two sessions daily and the request of the solicitor was denied.

Those prosecuting the investigation are not satisfied with blank refusal of witnesses to answer questions. The right of witnesses to refuse to answer, even after requested by the council, will, it is said, be thoroughly tested today.

Last night's session adjourned at 10:15 p. m.

of the company in any elections, legislation or bond issues. When employed as a clerk he admitted doing work indirectly for the company.

"Just what did you do?" was asked.

"Well, I was employed by the illuminating company and I worked against the issuing of bonds for a municipal lighting plant."

"Just how did you work?"

"A sort of a campaign of education."

"Well, just what did you do?"

"Just the opposite of Mayor Johnson," was the reply.

"Did you spend any of the company's money?"

"Yes."

"How much?"

"I don't know."

"Well, relatively, \$10, \$100 or \$1,000 or \$10,000?"

"It was more than \$10 and less than \$1,000."

"Who gave you the money?"

"It was mine when I got it."

"You mean to say that you spent your own personal money?"

"I did not say that."

"Well, now just what do you mean?"

"Well, I had an expense account and was reimbursed for what money I spent."

"Who O K'd your expense account?"

"Anyone in authority, Mr. Scovill sometimes."

"Were the accounts itemized?"

"No."

"Well, you say that you did not do this work after June 1, 1904, but simply acted in a professional capacity for the illuminating company," continued Mr. Baker. "Now from the time you were admitted to the bar how much money has the company paid you for professional services?"

"I decline to answer. I do not think that is any of the business of this council."

"Did you have an expense account?"

"No."

"All your money was in the shape of remuneration for professional services?"

"Yes."

"Well, how much was that?"

"I decline to answer unless the council insists."

Councilman Dewar objected to the question. The council overruled the objection by a vote of 28 to 3.

"Now then, the council has ordered an answer to the question," said Mr. Baker.

"Well, I have changed my mind and will not answer," replied Strong.

"Let it appear on the records that the witness refuses to answer," said the solicitor.

"Does the amount include any disbursements?" was asked.

"I have spent my own money for my own interests and not for the interests of the company," was the reply.

Witness admitted that he kept Mr. Scovill informed as to what was going on at the council meetings. At the same time, he said, Scovill was not particularly interested. Admitted calling him up on the telephone late at night, but said it was because of a common joy at anything adverse to the wishes of the present city administration and not from any particular interest in annexation legislation one way or the other. The witness started to answer questions concerning conversations with members of the council when the attorneys interposed objections, which were sustained.

The actual trial of the members of the council charged with bribery and misconduct in office commenced at 2 o'clock with the calling of the case of Thomas E. Croke. Previously Mayor Johnson had submitted a communication in which he refused to comply with the demand of the council and make the charges more definite and specific. "A thorough and searching investigation is what the people want. Any trial hampered by technicalities can amount to nothing," said the mayor.

Attorney C. W. Collister, representing Councilman Croke, argued that there were no cases against the fifteen Republican members. He wanted the charges officially dismissed by the council. Member Halle interposed and moved to reconsider the motion asking for more certain charges. "We were perfectly right in so asking but so as to take away any cry that we do not want to look into these charges I am willing to waive this right and ask a reconsideration of the motion." The motion to reconsider was carried 28 to 3.

Attorneys Dawley and Collister sat directly in front of the members where they could confer with them and make frequent suggestions as to the relevancy of questions put by Solicitor Baker as prosecutor.

Samuel Scovill, vice president and treasurer of the Cleveland Electric Illuminating Co., was the first witness called.

FRIEDRICH NOT "SCARED."

Says He Will Continue Clean Car Crusade After Learning His Legal Rights.

City Solicitor Baker and Health Officer Friedrich will confer tomorrow morning on what further action can be taken to compel the Cleveland Electric railway to maintain their cars in a healthy and sanitary condition. The conflict between the company and the health officer Friday, when the cars of the Scranton avenue line were held up for an hour and two crews were taken into custody by the sanitary patrolmen, will be made the basis of the conference.

The crusade for cleaner cars is not yet over, says Dr. Friedrich. The city solicitor will look up the law bearing on the question as to whether or not the city can compel the company to clean the cars effectually. If it is found that compulsion may be used, it is probable further action against the company will be taken.

TO WITHDRAW THE PROBE.

City Solicitor Baker, at the council meeting Monday night, will ask for a postponement of the bribery investigation until the court has finally settled the injunction suit sought by the Cleveland Electric Illuminating Co. This delays the matter for an indefinite period.

TO BE TAKEN TO COURTS TODAY

Question of Council's Authority to Compel Testimony to be Settled.

Ordinance Passed to Force Illuminating Company to Produce Books.

INJUNCTION TO BE ASKED

In Disposing of This Question It is Expected That the Whole Matter of Council's Power as an Investigating Body Will be Settled—No Use to Go On Under Present Conditions, City Solicitor Thinks—Asks for Help to Prosecute Charges—Adjournment Taken to Monday Evening at 7:30 O'Clock.

The next definite steps to be taken in the councilmanic bribery investigation will be to the courts, where the question of the power of the city council to make witnesses give more than voluntary testimony and to force the production of books and documents for the inspection of the council will be settled.

Following his intimation of Thursday, Solicitor Baker presented an ordinance to the council yesterday afternoon providing that witnesses be forced to answer questions and furnish books as demanded under penalty of contempt and imprisonment in the county jail. The council passed the ordinance almost without opposition.

Attorney Thomas H. Hogsett, representing the Cleveland Electric Illuminating Co., has served notice that he will ask for an injunction against the production of books this morning. This, it is anticipated, will bring the question immediately before the common pleas court for argument.

After a long and at times bitter debate over a resolution introduced by Solicitor Baker, asking for more assistance in the prosecution of the cases, the council adjourned yesterday afternoon until Monday night at 7:30 o'clock. At that time it is believed that there will be some indication as to how long it will take the courts to decide the important question of the extent of power of councilmanic bodies in an investigation when charges have been preferred.

In arguing in behalf of the ordinance Solicitor Baker said it was absolutely imperative that the power of the council be determined and determined speedily.

"Unless we can compel witnesses to give more than voluntary testimony this investigation might as well end now," said the solicitor.

Mr. Baker said that as far as he was concerned he would be satisfied with the ruling of the common pleas and circuit courts. In other words, the solicitor said that if the common pleas and circuit courts should decide that the council has not the power to force testimony and force the production of books he would not carry the question into the supreme court, where a delay of anywhere from one to two years might be encountered, with the members of the council remaining under charges all that time.

"I want it understood, however, that Mr. Hogsett, as the attorney for the illuminating company, reserves the right to carry the case into the supreme court," said Mr. Baker.

"Yes, and possibly to the supreme court of the United States," said Attorney Hogsett.

Although the members of the council will resume the investigation Monday night it is not certain that any progress can be made. It seems to be generally admitted that very little if any progress can be made by examining witnesses without a thorough knowledge on the part of the council to just what extent they can really probe.

Attorney C. W. Collister spoke on the Baker ordinance, introduced in the name of Councilman Halle, as follows:

"The attorney for the illuminating company has served notice that the company will not produce its books," said Collister. "The passage of this ordinance means that the controversy will be carried into the courts. Undoubtedly the illuminating company will carry the case as high as possible. This means carrying the matter to the supreme court. The supreme court is a year and a half behind its docket. The situation is that the charges cannot be investigated for a year and a half. I am not criticising the ordinance, but trying to find out where we are at."

"It must be remembered that neither Mr. Collister nor myself made the laws," replied Baker. "If this investigation is to be carried on, giving the prosecution only power to get voluntary testimony, the whole thing ought to be dropped. It will not amount to anything. Now is the time to determine the powers of the council."

"If the ordinance is carried to the courts I will be there and use every means to have decision hurried up. Under the circumstances I am inclined to believe the courts will act quickly. If the investigation is to amount to anything we must determine where we are at."

In answer to questions Solicitor Baker explained that if common pleas and circuit courts decide against the council he would not carry the case to the supreme court.

Solicitor Baker presented a resolution asking for additional legal assistance in prosecuting the case. He wanted time, he said, to examine witnesses and do work in his office. He commented on the fact that there were able lawyers on the side of the defense. A long and bitter argument followed. Attorney Dawley urged the defeat of the resolution. "Mr. Baker is sworn to investigate with impartiality and fairness. Other persons brought in here might be influenced by motives of personal interest. Don't be cowed, don't grovel before the mayor like whipped spaniels. That is what you are now doing. Let it drift into the courts and then find out where you are at. The courts will decide that the council has no power to continue this kind of business. But you will be still under charges without a vote."

"Stop once for all being cajoled, frightened and then threatened by Mayor Tom Johnson. Is it coming to such a proper for me to act as suggested at the present time?"

Councilman Halle asked Baker if he had not said he knew certain members under charges were innocent, and, if so, why did he not name the men. "There is not a lawyer in the city but that will tell you that knowledge of innocence precludes your carrying on any further," replied Baker. "You have ordered me to conduct this investigation alone. I desire the common courtesies, ordinarily extended to all prosecutors, to investigate as I see fit. You have ordered me to take these matters up in alphabetical order. I desired to investigate in another manner, to call the cases as seemed to best suit the matters in hand, to really investigate."

"If you do not want me to prosecute this case, say so, and get someone else. But if not, I must demand to prosecute as I see fit."

Councilman Halle explained that he wanted to do everything possible to assist Mr. Baker and at the same time look out for the rights of the members of the council. He did not see, however, any necessity for passing the resolution at the present time. In concluding Halle made a motion to the effect that the resolution be put upon the table until such time during the progress of the investigation Solicitor Baker should deem it necessary to have immediate assistance. The motion was carried and the resolution temporarily tabled.

Speaking on the Baker resolution asking for assistance Councilman Croke grew bitter. He characterized it as an attempt on the part of the administration to get someone in to do "the dirty work."

"Mr. Baker is too fair a man to deal in mudslinging, but someone has to do it to assist the mayor in his desperate plight," said Croke. "The object of this resolution is to give Mr. Baker a chance to stand from under and throw the burden of the mudslinging upon some irresponsible cur."

After the consideration of the resolution was ended an effort was made to get Solicitor Baker to name all members of the council whom he regarded innocent of any charges. The solicitor contended he could not properly do so at that time. "We are not carrying on this investigation on any information I may have but we are attempting through witnesses to prove either the truth or falsity of the charges. For me to say that I believe certain ones are innocent would add a double imputation upon those whose names might not be mentioned."

"I did not desire to start the examination alphabetically as I have said a dozen times. I do not think it would be pass that decent men cannot run for office in the city of Cleveland? There will be such a condition and speedily when men's characters are attacked because of the mere idle gossip of the streets. Quit yourself like men, act on your own rights and defeat this resolution."

"I do not think I said I knew certain members were innocent but that I believed they were," said the solicitor. "But as I have explained many times the way this situation has been brought about and the manner in which I am compelled to act will prevent me from absolving any member from the charges at this time. When the proper time comes I shall be glad to sum up the evidence as a lawyer if the council so desires."

Subpenas were issued yesterday for V. H. Miller, C. L. Mills, Milton Staley, Thomas Flemming and W. H. Prout, all employees of the illuminating company. Subpenas have been out two days for Hubbard Cook, one of the directors of the company and F. E. Humelsburgh, stenographer, employed by the company. A deputy clerk was sent out to Euclid Thursday night to remain until service could be obtained upon Mr. Cook. He could not be located, and a copy of the subpoena was left at his residence. City officials claim that both Cook and Humelsburgh know they are wanted and ought to come to the city hall voluntarily.

TRY AGAIN TO PUT MAYOR ON STAND

Republican Councilmen Insist
He Tell What He Knows
of Charges.

Efforts Unsuccessful—Injunction Ties Up Investigation.

Another effort was made at the council meeting last night by some of the members of the city council to place Mayor Johnson on the stand as a witness in the councilmanic investigation. City Solicitor Baker spoke vigorously against such a proceeding as being contrary to all legal methods. He positively declined to place the mayor on the stand, even though the council should so vote.

"You retained me to assist in this investigation," he said. "If I continue to represent the council I shall conduct the case my own way. If my manner of examining witnesses does not meet with its approval, the only thing it can do is to release me from all connection with the investigation."

Various members of the council had asked during the meeting last night that the mayor assume the role of witness and tell what facts he had in his possession, relating to the charges he preferred against the Republican members of the body. Mr. Baker each time declined to interrupt the order of his examination. Councilman Halle, late in the session, moved that the mayor be placed on the stand, and Horner seconded the motion. It was then the solicitor stated if the council would not permit him to exercise his discretion in the selection of witnesses it could release him from his obligations in the case.

Councilman Croke, the member now on trial, insisted that the mayor testify, but his attorney, Mr. Collister, thought the mayor knew nothing relevant and that "the mayor is going gunning after someone outside the fifteen," the attorney said. "It would be a waste of time to ask him questions." The meeting adjourned before a vote was taken.

The meeting of the council was practically taken up by a review of the circumstances which led up to the filing of the charges against the members, and a running debate between the Republican members, Mayor Johnson and City Solicitor Baker, in which the motives of the mayor were impugned on the one side, and defended on the other. During the debate, an intoxicated man in the lobby attempted to assist in the argument, and was ejected by the policeman on duty in the chamber.

City Solicitor Baker began the debate by an explanation of the legal proceedings instituted in the common pleas court yesterday against the council by the Cleveland Electric Illuminating Co., and the subsequent granting of a temporary restraining order preventing the city from inspecting the books of the company. He stated that it would be impossible to proceed with the councilmanic investigation until the litigation was finally settled. He thought, on his part, the time consumed would scarcely be more than a week.

Councilman Halle wanted Mr. Baker to introduce other testimony he might have, while waiting for the disposition by the court of the illuminating company's case. Mr. Baker said it would be impossible to do that, since he had only one witness outside the company, and that witness had served notice he would only testify on compulsion. Councilman Horner secured the floor on a question of privilege.

"I have taken little time during the progress of this investigation," he said, "and since with other members, am under charges of misconduct, it seems no more than right that I state my position in this matter."

"To begin with, it is all politics; dirty politics at that, that lead to the filing of these charges. Go back to a time, some weeks ago, when there was a contest over the election of a city clerk and the organization of the council. The fight was between the Republicans, with a few called anti-Johnson Democrats, and the Democrats. The Republicans and the antis won out. Mayor Johnson was sore over his defeat and sought to even things up by giving out a statement tending to injure everyone who had been connected with the deal. The statement implied the Republicans were influenced by corruption. That was what was in the mind of myself and of all the Republican members of this council. The mayor came in here and evaded the proposition altogether. It was a queer perversion of political ethics, if there be such a thing."

"I say it was a gross abuse of the power of the mayor to prefer such charges as he presented to this body, without being in the possession of facts supporting them. The fact that some witnesses were asked if they contributed to a fund for the purpose of sending some contesting delegation to a Democratic convention, and other evidences here, demonstrate the charges were brought for nothing but a political reason."

Mr. Hitchens spoke for some time on the charges as they reflected on himself.

Mayor Johnson replied at some length to Mr. Hitchens. "If it is true that the illuminating company is selling a public commodity and is attempting to secure control of the city council for that purpose, it is political debauchery," the mayor said. "I believe the village of South Brooklyn would now be a part of the city of Cleveland, were it not for the efforts of the Cleveland Electric Illuminating Co."

"Before this meeting is over," said Mr. Hitchens after the mayor had resumed his seat, "I want to denounce the spy system in force in Cleveland. It is a condition that exists elsewhere only in Russia. No member of this council can leave the chamber and talk to a fellow member, without being followed by some spy who takes notes of the conversation, the place where it occurs, and the participants. It is a contemptible piece of business, and a disgrace to the city and the country."

After a discussion of the propriety of placing the mayor on the witness stand, the council adjourned. It was agreed that if the restraining order granted against the council could be broken this week, a call might be sent out for a special meeting to resume the hearing on the mayor's charges.

GETS AN INJUNCTION.

Temporary Order Restraining Council From Requiring the Production of Lighting Co.'s Books.

The Cleveland Electric Illuminating Co. secured a temporary injunction against the city of Cleveland and the members of the city council yesterday restraining the execution of the ordinance requiring the production of the books and papers of the company before the council in connection with the investigation of

the charges made against members of the council by Mayor Johnson. The temporary injunction was granted by Judge Ford.

Attorney Thomas H. Hogsett, representing the illuminating company, filed the suit. He says he will not be willing to enter upon any argument of the case before tomorrow. In his petition for an injunction Attorney Hogsett claims that the city ordinance which is attacked is a violation of both the federal and state constitutions. He contends that "it is a perfectly patent violation of section 4 of the federal statutes against the unwarranted seizure of books, papers, documents and private records." He also sets forth the contention that the ordinance is in contravention of section 14 of the Ohio constitution having to do with what is known as the bill of rights.

The petition recites that the ordinance not only strikes at the right of corporations to hold sacred their private affairs, but that it also strikes at individual liberty.

Mayor Johnson is charged with inspiring the whole agitation not because of any substantial charges against any members of the council, "but to get at the private affairs of the illuminating company in order to get private facts and information for use in competition with the company and for use to advance desires along lines of municipal ownership."

The petition sets forth that the illuminating company is doing a general business in the city of Cleveland with thousands of customers and consequently with thousands of private accounts. A general denial is made that there are any accounts on the books which would in any way have any connection with the investigation being conducted in the city council. To have a public examination of its private accounts, the company sets forth, would do them irreparable injury in addition to denying them the common rights of individual liberty.

Attorney Hogsett and Solicitor Baker will have a conference some time today with a view of fixing upon a date for the hearing of the case. It is hardly thought now that the matter can be in any way determined before the end of this week.

The contention cited in the petition of the illuminating company that the ordinance is in violation of the federal statutes is regarded as significant. It is regarded as meaning that the illuminating company has prepared to carry the matter to the supreme court of the United States in the event its contentions are not sustained in the lower courts, including the supreme court of this state. If the matter drags through the courts to the supreme court of the United States it is conceded that it will be a matter of three years or longer before a final decision can be expected.

ARE CLEAN.

DR. FRIEDRICH DOES NOT
EXPECT ANY MORE TROUBLE
WITH CONCON.

Street cars were clean Monday morning, said Health Officer Friedrich. The health department does not anticipate any further trouble with the concoction regarding dirty cars.

Friedrich said Monday that the matter had been referred to Solicitor Baker.

"All the department has asked is that the cars be kept clean, and as long as the company keeps them so there will be no trouble," said Friedrich.

COUNCILMEN SAY BOOKS ARE VITAL

Insist on Knowing How Illuminating Company Spent Election Money.

Council, Mayor and City Solicitor Answer Injunction Suit.

Answers of Mayor Johnson and City Solicitor Baker, for the city, and of Edmund Hitchens and the thirty-one other members of the council, to the suit of the Cleveland Electric Illuminating Co., for an injunction restraining the council from executing the ordinance to compel the company to produce its books in court, were filed in common pleas court yesterday afternoon. The answer of the councilmen asserts that it is already admitted and proved in the councilmanic investigation that the company made expenditures for political purposes and with the object and intent of influencing and controlling elections.

The answers were filed late in the afternoon and came after Judge Beacom, who has been selected to hear the case, had endeavored to place it on trial. He failed, but it will be taken up at 10 o'clock this morning.

Johnson and Baker in their answer for the city admit many of the facts stated in the petition of the company, but absolutely deny the charges made that Mayor Johnson inspired the whole agitation not because of any substantial charges against any members of the council, "but to get at the private affairs of the illuminating company in order to get private facts and information for use in competition with the company and for use to advance desires along lines of municipal ownership."

The language of the denial is that each and every allegation is denied except that they "admit that Mayor Johnson has from time to time urged upon various officers and the city, in a public way, and in his public capacity as mayor, that it would be profitable for the city of Cleveland to enter into the business of owning and operating a municipal electric lighting plant."

The separate answer of the council admits practically all of the allegations of the petition for injunction, but says that it is the duty of the council to proceed with the investigation of the charges and that the code gives the council power to issue subpoenas or compulsory process to compel attendance of persons and the production of books and papers before the council and to provide by ordinance for the enforcing and exercising of this provision, thereby securing the same power as is conferred by courts of justice.

The answer also declares that in the course of the examination and investigation already conducted before the council it appears in evidence that the illuminating company has upon its books an account known as the executive or general expense account into which are grouped expenditures made on various accounts authorized by Samuel Scovil as general manager, such expenditures being in part unitemized and, to use the language of the answer:

"It is already admitted and proved that, in said investigation, some of the items and expenditures charged to said executive or general expense account in the books of the company, were expenditures made for political purposes and with the object and intention of influencing and controlling elections held in the city of Cleveland wherein the interests of the plaintiff company were adverse to the adoption, at such election by the people, of certain measures then submitted to them; and these defendants say that it is a matter of grave public concern affecting the performance of their official duty by these to know to what extent the plaintiff has attempted by the expenditure of money to influence, affect or control elections in the city of Cleveland or the performance of their official duty by members of the council and that these defendants are powerless to investigate that subject matter or to take any action looking to the protection of the public interest, as against the plaintiff company, or to formulate proper and necessary legislation in the interests of the city unless they can compel the production of the plaintiff company's books and thoroughly investigate all expenditures made by said company for said purposes."

WILL BE APPEALED.

Little Chance for Final Decision on Injunction Suit for Some Time.

City Solicitor Baker will be in court today to oppose the granting of a permanent injunction to the Cleveland Electric Illuminating Co., restraining the city council from examining the books of the concern in the process of the investigation now on before that body. The hearing on a permanent order comes up this morning, probably before Judge Beacom in common pleas court.

It is expected that Judge Beacom will decide the case at once and that before the day is over it may be taken to the circuit court on appeal. If the city loses in its contention, Mr. Baker will appeal. If the illuminating company loses, Attorney Hogsett, representing it in the litigation, will appeal. An effort will be made to have the circuit court render a decision in the matter within a day or two. If a decision favorable to the city is reached before Saturday night, in all probability a special session of the council will be called.

Before the adjournment of investigation last Friday, Solicitor Baker made the statement before the council that if the city lost in its contention over the examination of the books of the illuminating company, he would carry the case no higher than the circuit court. The company, according to Attorney Hogsett is prepared to carry the case to the supreme court before it submits to an inspection of its records. The hearing today, and its result, will determine largely, the right or authority of the council to embark upon such an investigation as it is now immersed in. While Mr. Baker has not said what his action will be in the event the courts find the council has no power to conduct an investigation, it is generally understood about the city hall, that the charges preferred by the mayor against the Republican councilmen will be dropped.

City Clerk Witt is ready to call an extra meeting of the council this week, if the common pleas and circuit courts pass in favor of the city in the injunction proceedings. There is a very evident desire on the part of all the members of the council, to have the investigation concluded as speedily as possible. In the event of a favorable decision, five members of the council will sign a call for a special meeting, and a police officer will be detailed to serve a notice of the meeting on each member of the council.

It is not thought that much would be accomplished at a special meeting, however, for the reason that an appeal would have been taken from the circuit court findings, and the question would be still further tied up. There would be no legal right to inspect the books of the illuminating company, and the council would find itself in just the same position as last Monday night, when no witnesses were present to testify.

Lawyers Assert the City Lawmakers Cannot Try Themselves.

Electric Light Co.'s Injunction Hearing a Battle Between Attorneys.

Arguments in the injunction suit of the Cleveland Electric Illuminating Co., to prevent the council and city officers from compelling the production of the books of the company in the councilmanic investigation, were heard by Judge Beacom in common pleas court yesterday afternoon.

The hearing was begun at 10 a. m. and was not concluded until late in the afternoon. Judge Beacom may render his decision today.

The arguments of legal representatives dealt principally with the question of the jurisdiction of the council. Judge W. B. Sanders of Squire, Sanders & Dempsey and T. H. Hogsett, represented the illuminating company. Newton D. Baker looked after the interests of the mayor, himself and the council.

The courtroom was filled with interested spectators, including Councilmen Halle, Orgill, Remy, Sledz, Maulberger and others and a number of politicians from both parties. The arguments of the lawyers were chiefly technical and dealt with decisions handed down by various courts in cases similar to the one in controversy.

Mr. Hogsett for the illuminating company began the arguments in the morning. He talked for two hours. His chief contention was that the council had not the right to try its own members except for disorderly conduct, willful absence from meetings and violations of rules. Other cases he said, under the law, must come up in the courts. He claimed that there was absolutely no statutory provision for councilmen trying themselves in such a case as the present one and claimed that the present situation was absurd. He also argued that the municipal code and particularly the section under which the council has been proceeding does not include members of the council, but simply administrative officers of the government.

Solicitor Baker in reply maintained that the section of the code under consideration applied to the council as much as anyone else and cited a number of authorities. He said the section was intended to equip the council with necessary power and declared that the legislature intended it as an addition to the court statutes dealing with the subject.

After the conclusion of Mr. Baker's argument Judge Sanders was heard. He claimed that even if the section of the code in controversy was of much moment it was defective for the reason that it provided no penalty and therefore could not be made effective.

The hearing yesterday was simply a battle of lawyers in which nothing but the law was discussed. Before the hearing the attorneys for the illuminating company submitted a number of briefs to Judge Beacom for his perusal.

INJUNCTION CASE WILL GO HIGHER

A bond for \$100 to guarantee the costs was filed in common pleas court Monday to carry to the circuit court the injunction suit against the city in favor of the illuminating company. The injunction prevented the city from forcing the company to bring its books to the council. "The circuit court will pass upon

Judge Beacom's decision in the injunction case Tuesday," said City Solicitor Baker to a "Press" man Monday when asked what he intended to do regarding the investigation of members of council. "As the matter now stands Judge Beacom's decision is law—the council can do nothing."

WILL WAIT FOR SECOND RULING

Mayor and Solicitor to Do Nothing in Council Investigation Tonight.

Johnson Will Not Go on the Stand at This Evening's Meeting.

If the plans of City Solicitor Baker as prosecutor and of Mayor Johnson, go through, there will be no attempt to resume the investigation into the charges of bribery and misconduct at the meeting of the city council tonight.

Both the solicitor and the mayor are of the opinion that any action should be deferred by the city council until after the circuit court has passed upon the injunction granted by Judge Beacom, restraining the council from compelling the production of the books of the Cleveland Electric Illuminating Co.

"It was the agreement that action on the part of the council should be suspended pending the decision of both the common pleas and circuit courts," said the mayor last night. "And as far as I am concerned, the agreement will be kept."

In line with the suggestion that further action be deferred until after the circuit court decision, Mayor Johnson will not go upon the witness stand tonight, no matter how insistent the demand of any member of the council. Asked whether he would go upon the stand after the circuit court hands down a decision in the injunction matter, Mayor Johnson said he was not prepared to state.

Solicitor Baker last night reiterated his intention not to carry the question involved in the injunction to the supreme court. The solicitor says nothing can be said at present as to the exact course which will be followed in the event the circuit court decides adversely to the city.

UNDECIDED AS TO NEXT MOVE

Councilmen Have Outlined No Plan for Future of Investigation.

Circuit Court Decides Against City in Injunction Suit.

Future developments in the councilmanic investigation, brought to a halt some two weeks ago through the appeal to the courts by the Cleveland Electric Illuminating Co., depend upon steps that are to be taken by Mayor Johnson and City Solicitor Baker. At least this is the situation as the Republican councilmanic majority presented it yesterday, after the decision of the circuit court against the city was announced.

The Republicans held no caucus and have decided on no concerted line of action. They will make no plans until after City Solicitor Baker reports the result of the court case. This report will be made tomorrow evening, but what recommendation Mr. Baker will make concerning future action in connection with the investigation is problematical. It is possible that no recommendation will be made, Mr. Baker merely reporting the facts and permitting the matter to rest entirely with the council.

In this event there may be interesting developments. A number of the councilmen are perfectly willing to allow further action to go by default unless the administration demands it. Further action by the council, many of the members feel, would be farcical since the courts have fully decided that the council has no power to try any member of the body.

Mr. Baker said he would make a report and declared that he might appeal the case from the circuit to the supreme court. Pending the appeal, if one is taken, however, he will not ask the council to suspend any action it may see fit to take.

Mr. Baker said he was considering the question of further action in the courts in the way of carrying the present case higher, but it will have no direct bearing on councilmanic action.

Mayor Johnson, who returned to the city yesterday noon, refused to discuss the case in any manner.

The action of the Democratic members of the council will probably be governed by the suggestions of the administration. Councilman Maulberger, the Democratic floor leader, said yesterday:

"I do not think the investigation will be dropped. I know if I were accused I would insist on a full investigation. No matter what form the investigation in the council takes, though, it will be farcical in nature if you cannot compel witnesses to answer questions."

The circuit court Saturday morning sustained the position of Judge Beacom of the common pleas court in his decision on the injunction suit brought by the Cleveland Electric Illuminating Co. against the city council. Judge Beacom held against the city and declared it had no authority to compel the production of the books of account of the company, to be used as evidence against members of the council charged with misconduct in office.

The circuit court, in the decision read by Judge Henry and concurred in by Judges Marvin and Winch, follow a similar argument, and take the stand that the council has no authority under the law, to inquire into the charges against its own members, preferred by the mayor.

BAKER TO PREPARE MEASURE.

SOLICITOR WILL ASK COUNCIL TO REGULATE JUNK DEALERS AND PAWNBROKERS.

It will not be many weeks before pawnbrokers and junk dealers will be compelled to pay a heavy license fee or close up their business, according to information obtained at the city hall Monday morning.

"The matter of license fees for pawnbrokers and junk dealers has been brought to my attention several times recently," said Solicitor Baker Monday. "Such an ordinance is needed and I will prepare one for the consideration of the council within a short time."

Solicitor Baker agrees with Chief Kohler that it is of little avail, under present conditions, to arrest pawnbrokers or junk dealers for receiving stolen property.

Just what license fee the ordinance to be prepared by Baker will provide is not known, but it is said that it will be so high that many irresponsible persons now engaged in the business and with whom the police have been having considerable trouble on account of receiving stolen property, will be forced out of business.

TO COME UP TONIGHT.

**Cross Town Franchise Ordinance
Will Again be Presented to
the City Council.**

"I think, as far as I am concerned, that the cross town line ordinance will be presented to the council for action tomorrow evening," said Councilman Pears, chairman of the council committee on street railway affairs, yesterday. "If this council is going to do anything in the matter it ought to be done right away."

"The purpose of the measure, in addition to accommodating people in a general way, is to furnish means of transportation to and from Luna park and the public parks in the East and South Ends of the city. So far as I know there are no real objections to the ordinance as it stands at present. There has been some gossip to the effect that two or three councilmen desired to offer amendments, but I think these councilmen have changed their minds."

The ordinance, even if presented this evening, cannot be passed unless the rules are suspended. City Solicitor Baker in passing on it has recommended amendments to cure purely legal inaccuracies.

On final action in the council the ordinance will probably have the undivided support of the Republican members, while the Democratic minority will probably be split. The larger part of the administration members will undoubtedly oppose the measure unless the administration indicates that it has no objection to the ordinance. As yet there has been no indication that Mayor Johnson will not take a stand in opposition.

Councilman Thompson, an administration member, will probably favor the measure for the reason that he lives in a section that will be particularly benefited, where the people are decidedly in favor of a cross town line on almost any terms. Some anti-administration Democrats may also vote with the Republicans.

Mayor Johnson yesterday refused to enter into a discussion of the cross town line ordinance or any other matters relating to street railway affairs.

The council will not get a report on its legal powers to regulate street railway affairs tonight. Councilman Haserodt on Feb. 21 introduced a resolution, which was adopted, asking City Solicitor Baker to make such a report to the council. The resolution was adopted after President Springborn of the board of public service had expressed the opinion to the council that it had power to regulate street railway affairs, especially with reference to requiring better service.

Mr. Baker stated yesterday that he would not submit a report to the council this evening. Councilman Haserodt may ask the council to adopt a resolution requiring compliance with its former one.

MAY CARRY CASE
TO HIGHER COURT.

**Councilman Dewar Promises
"Something Doing" in Investigation.**

Solicitor Baker made a report of the action of the circuit court in the Concon injunction proceedings to the council Monday night, after that body had taken a vote on a motion to adjourn and had voted it down. Attorneys for the councilmen named by the mayor asked that the report be placed on the minutes.

"There will be something doing next Monday night," said Dewar. Baker intimated that the injunction case might be taken to the supreme court.

HEARING BEFORE
COUNCIL ENDS

**Bribery Investigation Called
Off as Far as That Body
is Concerned.**

**Another Report From Old
South Brooklyn Com-
mission.**

"The situation here before you tonight is that the courts have determined that you are powerless to act, and, such being the case, the investigation by this body is at an end," said City Solicitor Baker to the city council last night, in reporting the court decisions in the suit of the Cleveland Electric Illuminating Co. This was the suit brought to restrain the council from compelling the producing of the company's books in the bribery investigation.

Mr. Baker's report was received without question or comment and an adjournment was secured after it had been presented. The administration made no recommendation for further action and none of the accused councilmen suggested that further action to clear their names should be taken. Action will, however, probably be taken, but along what line is not known. The matter cannot down very soon, for Mayor Johnson reopened the cause of the trouble when he caused the old South Brooklyn annexation commission to submit a new report providing for the annexation of that village to Cleveland. This report was received without comment and was referred to committees.

The bribery question was not touched upon until after the regular business of the session had been disposed of. President Lapp announced that the table was clear of business and a motion to adjourn was made, seconded and presented to the house.

"Roll call, roll call," came the demand from the Republican members and the viva voce vote being in doubt the chairman ordered a roll call. It resulted in a vote of 10 to 22 against adjournment. Every one of the accused councilmen voted against adjournment. Lewis, Pfahl, Roche and Thompson voted with them.

Solicitor Baker was on his feet before the result was announced. "I assume," he said, "that it is proper for me to report the result of the litigation in the circuit court." He then briefly summed up the suit of the illuminating company against the council and the court decisions.

"The matter is, of course, at an end," he continued. "I accept and bring to you that decision. As to whether or not the case ought to be appealed to the supreme court I am undetermined even in my own mind. I said to the council, however, that I would not ask you to suspend investigation beyond the circuit court decision and the situation before you tonight is that the matter has been brought to an end."

"I think your statement and the result should get into the record of the case," said Attorney C. W. Collister, who with Jay P. Dawley, counsel for the accused, was present. Mr. Baker agreed with Mr. Collister and said he would make a

written report next Monday so that it could be placed in the record.

Councilman Croke thereupon moved an adjournment which followed without opposition.

After the meeting many of the Republicans indicated that they were willing that further action in the bribery charges should rest.

Councilman H. B. Dewar, Democrat, said:

"I am certainly not going to drop the case. I will do something before next Monday night."

He refused to indicate what this something would be. F. W. Wilke, the other Democrat under charges, refused to talk for publication.

UNCLE SAM ASKS
THE CITY TO ACT.

City Solicitor Baker will have an opportunity to wield his big stick over the head of a big corporation. Deputy Postmaster Emerson made formal complaint to Baker Saturday that two days ago, the Big Four Railroad Co. delayed the government mail, and by doing so violated a city ordinance which prevents trains from blocking street crossings longer than a certain number of minutes. Two days ago a mail wagon on the way to the Union depot to catch an eastern train with the outgoing mail was stalled at Front-st by a freight train. The driver waited 15 minutes, and then drove to Main-st, where another train blocked that street and there he waited 10 minutes more. Then he returned to Front-st and crossed the tracks, and by the time he reached the station the train he wanted to make was half-way to Painesville.

The Big Four cannot be proceeded against by the government, for the federal law says that a person is liable if he delays the mail willfully.

GAVE FRIEDRICH RIGHT
TO COMPEL THE CONCON.

Solicitor Baker has informed Health Officer Friedrich that he has the power to compel the Concon to keep its cars clean. Baker was asked for an opinion in the matter when the controversy between Friedrich and the Concon officials, over the condition of Scranton-av cars, was on.

BAKER UNDECIDED.

**Has Given No Attention to Matter
of Jackscrews.**

City Solicitor Baker has not yet decided the question of the legality of arresting the directors of the Cleveland Electric Railway Co. for failure to comply with the ordinance compelling jackscrews on cars.

"I haven't the faintest idea when I shall take up the question," said he yesterday. "My time has been taken up with other matters that needed my attention."

RESTLESS NIGHT BUT NO DECISION

Gott Puts Question of Arresting Street Railway Directors Up to Baker.

Stanley Criticises Law, but Says Company Will Obey if City Insists.

"I am thinking about it," said City Solicitor Baker yesterday evening after he had held a conference with Police Prosecutor Gott relative to the enforcement of the ordinance compelling the street railway company to equip its cars with jackscrews.

Unmindful of the coming day the directors of the Cleveland Electric Railway Co. slept well on Thursday night. Wrestling with the problem of directors and jackscrews, Gott spent the night awake, or at best in fitful slumber.

Yesterday Gott decided to pass the proposition to his chief, City Solicitor Baker.

"Mr. Gott read to me an ordinance," continued Mr. Baker. "He talked about it and I talked about it. I am considering the matter, but there is nothing that can be told the public at the present time. I may decide the matter tomorrow morning."

And there the question of enforcing the ordinance rests at present. The police want to cause the arrest of the directors of the street railway company. They asked the prosecutor for warrants as a result of the death of Michael Callahan, No. 82 Lake street, who was killed by a motor Tuesday. Callahan was pinioned under the car for many minutes.

Doubt existed as to the efficacy of the law in reaching the directors of the company and the police prosecutors desired to consult their chief before acting. The conference with Baker yesterday afternoon was the result.

General Manager Stanley of the Cleveland Electric Railway Co. says putting jacks on every street car is a very poor idea, but, he adds, if the city really insists, I suppose there is nothing else for us to do but to put a jack on every car and comply with the ordinance.

"When a car does run someone down the crew is excited and unnerved by the accident and in no condition to work a jack. I know they can't do it. In the case the other night, the car slipped from the jacks and fell across the body again, and that will be true every time with men inexperienced in the use of the jack.

"There are twelve wrecking wagons stationed at various points in the city and each can reach any given place in its district within ten minutes time. We carry jacks and everything else on these wagons, as well as skillful men, who know how to use them.

"I am willing to give a special test for the benefit of the council and show them that we are doing the best we can now to prevent loss of life by accident."

MAYOR FAVORS SUBWAY.

Mayor Tom talked subway with President Andrews and Secretary Davies, of the Concon, for two hours Tuesday in City Solicitor Baker's office. Baker was present part of the time, but City Engineer Carter was not, though he had been expected.

Details of the proposed subway were gone over, the discussion being entirely tentative. After the conference, Andrews said the mayor seemed favorable to the subway proposition and that the main question at issue was the extent of the project.

Mayor Tom said he favored a subway to contain tracks for cars going in one direction, with surface tracks for cars going the other way, so that the through lines would not be interfered with by other cars. The company favors a double-track subway to accommodate cars going both ways on both north and south and east and west lines.

CASES NOT PARALLEL.

Decision in Schreiner Suit Won't Affect Councilmen, City Solicitor Thinks.

City Solicitor Baker asserted yesterday that the decision of the circuit court in the case brought by Police Clerk Paul Schreiner, wherein Schreiner sued to compel Auditor Madigan to pay him the salary increase granted by the council, and decided in Schreiner's favor, would have no effect on the question of salaries for councilmen.

Last December the council passed an ordinance increasing the salaries of members of the council from \$600 to \$1,200 a year. Those members taking office Jan. 1 are now drawing the increase. The others are paid at the old rate.

After the circuit court decision in Schreiner's case was made known it was suggested that the decision might affect the members who have not become beneficiaries of the increase. Baker, however, holds that Schreiner's case is not at all parallel with that of the sixteen members of the council. The councilmen may make an effort to have the point settled by the courts, though.

BIDS WERE REJECTED.

All the bids for the bridge over the Nickel-plate tracks at Detroit-st were rejected Friday. Solicitor Baker found that the lowest bid had been informally given and advised a readvertisement.

MAY START FIGHT ANEW.

Republicans Will Still Oppose South Brooklyn Annexation if Municipal Lighting is Included.

An ordinance providing for the annexation of South Brooklyn will probably be introduced at council Monday night. Solicitor Baker said, however, at noon Monday, that he had not drawn up the ordinance.

The Republican members will oppose the ordinance if it contains anything that gives the South Brooklyn citizens any privileges in the way of lights that other people of the city do not have.

"Many of us favor the annexation, but the village must come in just like any other village that asks to be made a part of the city," said Councilman Croke.

Councilmen Dewar and Wilke will present resolutions asking that Mayor Tom continue his investigation of charges against them in the probate court.

BAKER IS NOT READY TO ACT.

WILL GIVE DECISION IN JACK-SCREW MATTER IN A FEW DAYS.

Solicitor Baker said Saturday that he had not yet fully investigated the law compelling the Concon to provide its cars with jackscrews.

"It will be several days probably before I am ready to give an opinion on the matter," said Baker. "My time has been taken up with other things that needed my immediate attention."

MIND IS A WRECK.

Police Informed One of Men Who Robbed Baker Has Gone Insane.

Word was received by the police Monday that John Freeman, sent to the penitentiary for holding up City Solicitor Baker, has become insane. He has not yet been sent to the state hospital, but the police were informed that he would soon be removed from the penitentiary.

Freeman, with John Behan and Paul Martin, was convicted of robbing Baker some time ago.

AWAIT CALL FROM THE PEOPLE.

**CITY OFFICIALS WHOSE
TERMS EXPIRE THIS FALL
ARE NOT HUSTLING.**

**THE TERMS OF THREE COUN-
CILMEN WILL ALSO COME
TO AN END.**

"It is yet too early to think about the fall campaign, and I have given the matter little thought—been too busy with the work of the department," said Solicitor Baker to a "Press" man when asked if he would be a candidate for re-election.

Other officials whose terms expire this fall—Servers Springborn, Cooley and Leslie—answered in much the same way. Mayor Tom, however, told a "Press" man the other day that he would again be a candidate and went so far as to say that the issue in Cleveland this fall would not be municipal ownership.

"The nomination came to me without asking for it two years ago," said Leslie. "I'm no politician, but when I was nominated, of course, I went into the fight to win."

While the servers would not say that they would again be candidates, it is generally understood around the city building that they will be.

BOYS MUST KEEP AWAY.

Law to Prevent Minors From Congregating Where Liquor is Sold to be Strictly Enforced.

In the daily police bulletin yesterday the following order was issued:

To the force: Following you will find a copy of a letter from Mr. Newton D. Baker, city solicitor, calling attention to frequent violations of section 6943-1 of the R. S., and suggesting a remedy.

You will at once notify all persons allowing minors in or about places where intoxicating liquors are sold to discontinue the practice, and if further violations are found, make arrest of the persons responsible for the violations.

Your attention is also called to section 6943-3 of the R. S.

Fred Kohler, chief of police.
Cleveland, O., March 26, 1905.

Frederic Kohler, esq., chief of police, city: My attention has been called to the fact that in some sections of the town large numbers of boys congregate in saloons and places where intoxicating liquors are sold. I realize the very great difficulty of preventing this, but section 6943-1 of the R. S. provides, "It shall be unlawful for any minor to enter any saloon, beer garden, or other place where intoxicating liquors are sold, ex-

cept in the discharge of some lawful business or accompanied by parent or guardian."

It has seemed to me that a wholesome influence would be exerted by instructing the various members of the force to make a considerable number of arrests under this statute in various parts of the town; it is quite likely that the police court would place all these young men on probation when arrested and not subject them to any penalty for first offense, but I think no one other influence is so strong in promoting a tendency to crime as the association of barrooms and saloons, and as far as it is practicable I think we ought to endeavor to prevent them from entering such places. Yours very truly, Newton D. Baker, city solicitor.

MAKE THE TIME LIMIT DEFINITE

**Baker Advised Council Rela-
tive to Cleveland Electric
Short Line Grants.**

**Thinks One Year is Long
Enough Period for Ex-
tensions.**

Street railway matters, it is probable, will attract a great deal of attention at the meeting of the city council Monday evening. Prominent in the discussion will be the Doan street and Woodland Hills avenue cross town line ordinance and the measure extending the grants of the company on the eight parts of streets down town. Discussion of this question is expected to be interesting by reason of a letter written to the council by City Solicitor Baker on the subject yesterday.

Councilman Felton, author of the cross town line ordinance, said yesterday that he would demand that the measure be called for third reading and final passage at the next meeting. He also expressed the opinion that the council would pass the ordinance.

"There has been enough dilly dallying," said Felton yesterday. "If there is to be decisive action we might as well act right away as at some other time. Attempts to kill the ordinance by amendments may be made, but I think all amendments will be voted down, if any are offered. The people want the cross town line and when the council passes the ordinance I don't think the mayor will veto it."

"My constituents have also given me explicit instructions to vote against the ordinance granting an extension of the Quincy street line in Woodland Hills avenue to Luna park, unless the cross town line ordinance is passed. C. P. Salen, a large stockholder in the park, is, I understand, back of the Quincy street extension ordinance. All the Luna park people desire is street railway connections. It doesn't matter to them how they get such facilities. When I introduced the ordinance I had no knowledge as to who were behind it."

The cross town line ordinance was presented for third reading last Monday, but the adoption of some amendments caused it to revert to an ordinance on second reading.

City Solicitor Baker's letter relative to the expired street railway grants down town is interesting in that it deals with

possible legal tangles. It also explicitly sets forth the line of action which he suggests that the council follow:

The letter addressed to the council is as follows:

"I return herewith to you ordinance No. 660 referred to me on the twenty-seventh day of March, 1905. This ordinance is drawn for the purpose of extending temporarily the right of the Cleveland Electric Railway Co., in various short extensions granted by the number of the ordinances referred to in ordinance No. 660.

"An examination of ordinance No. 660 leads me to the belief that it ought not to be passed by the council, but that as to each extension so proposed to be dealt with, a separate ordinance should be introduced identical in terms with the original ordinance under which the extension was granted, except as those sections limiting the time of expiration. I attach to this letter copies of all the ordinances in question, from an examination of which the council will discover that various terms are imposed—and conditions made as the basis for the grants contained in them. It will be much safer for the city if the council deals with each of these grants in detail, and does not lump them into one ordinance.

"I further call the council's attention to the latter part of section 2 of ordinance No. 660, which provides that the grants proposed shall be in force until by ordinance revoked, and reserving the right to the council to revoke all such grants on reasonable notice to the company. This is objectionable on two grounds: First, reasonable notice is a term upon which litigation can be based, and is therefore a mere invitation to the grantee to enjoin an attempt on the part of the council to revoke the permission granted, if the council should see fit to exercise the reserved right, and, second, I doubt very much the power of the council legally to make a grant which is indefinite as to the time of the expiration. It is quite conceivable that under a grant in the language of this ordinance a street railway company might operate for 100 years without any renewal, which would be directly contrary to the language of the statute.

"I therefore suggest that all such grants be made to terminate upon a day certain, unless sooner revoked under reserved power of revocation, and in view of the condition of the street railway franchises in the city and the amount of litigation which is now in progress with regard to many of the streets occupied by the company, I advise the council not to make that day certain at a greater distance than one year from the time of the grant. In this way the company can come to the city at the termination of the year and get a similar renewal from time to time, so long as the council sees fit to make them and the council will not run the risk of making long grants even for shorter pieces of tracks."

SAYS TIME LIMIT MUST BE STATED.

Solicitor Baker will send a communication to council Monday night advising that separate ordinances be passed for the extension of street railway grants on short portions of several streets. He will also advise that the franchises be limited to one year. The franchises expired at midnight March 22.

Baker says the council has no right to pass a franchise ordinance unless the time of expiration is definitely mentioned.

SPEND \$10,000 FOR WATER METERS.

**SERVERS ENTERED INTO A
CONTRACT, WITH ONE
COMPANY.**

**BAKER DECIDED THAT THE
WORK SHOULD NOT BE
DIVIDED.**

The servers contracted with the Neptune Water Meter Co. Monday morning for \$10,000 worth of water meters. The price was \$6 each. There were three other bidders and Supt. Bemis, of the water works department, in a communication to the board, stated that he desired to divide the contract between them, but Solicitor Baker had ruled against such action. He said the department should have 10,000 meters of all the standard makes. The meters purchased are guaranteed for five years.

Supt. Bemis stated that he expected many requests for meters within the next few weeks.

WITH HIS APPROVAL.

**City Solicitor Reports Back Penn-
sylvania Grade Crossing Agree-
ment—Salaries Raised.**

City Solicitor Baker reported back to the council last evening the engineer's agreement with the Pennsylvania Railroad Co. covering all grade crossing work to be done by that system in Cleveland, with his approval. The council referred the agreement to the committee on grade crossings.

Ordinances increasing the salaries of City Treasurer Coffinberry and all of his assistants as well as some of City Auditor Madigan's bookkeepers were passed. The ordinance raising the salary of Chief Operator Rothgery of the fire alarm service was handled in the same manner.

The service board was authorized to spend \$15,000 in buying new water tube boilers for the Kirtland pumping station, while an expenditure of \$6,000 for the superstructure of a temporary engine house at the station was passed.

The council passed the ordinance to spend \$16,000 in dredging a part of the river.

CHANCE EUCLID TO CHADWICK.

**East Prospect Street Man Threatens
to Go to Court.**

An irate East Prospect street property owner complained to City Solicitor Baker yesterday.

"I am decidedly opposed to changing the name to Carnegie avenue," he said, "and unless other remedy is secured I'll take the matter into court, unless," and he said this somewhat facetiously, "you change Euclid to Chadwick avenue."

NO EVIDENCE OF FRAUD.

**Baker Says Wagner Sewer Contract
Was the Best the City
Ever Had.**

"There is not the slightest evidence, not the least breath of fraud can be brought against anyone who was concerned in this contract," said City Solicitor Baker yesterday in his argument to the court against the granting of a permanent injunction enjoining the payment of money to Contractor John Wagner for work on the intercepting sewer.

"The board of public service had full power to act under the municipal code, and they signed, on the advice of the city solicitor, a contract that is the most valuable one ever procured by the city from a sewer builder.

"Mr. Wagner, under the terms of a contract in force at the time the new contract was made providing for the tunnel process in the construction of this sewer, might have had grounds of action against the city for the violation of that contract amounting to \$133,000. He appreciated the difficulties of the situation and consented to finish his work at a figure lower than the city ever before was able to secure. Every party to the contract acted with the best judgment."

City Engineer Carter was recalled to the witness stand yesterday morning in the hearing of the injunction suit. His testimony was short. D. E. Leslie and H. R. Cooley of the board of public service were called to testify. They said that in sewer matters they acted upon recommendations of President Springborn and Engineer Carter, and had no intimate knowledge of the case.

Yesterday afternoon was devoted to arguments by the attorneys represented in the action. - These number five: City Solicitor Baker and Assistant Prosecutor Levine for the city, Scott & Parks for J. C. Brooks, the plaintiff, and Attorney Hopkins for Contractor Wagner. The decision of Judge Lawrence is not expected for at least a week. It is probable the case will be carried up regardless of Judge Lawrence's opinion.

MAY DIVIDE THE CONTRACT.

**Baker Reconsiders Decision Rela-
tive to Purchase of Meters.**

The purchase of 10,000 water meters was again considered by the board of public service at its meeting yesterday, although a week ago it granted the contract to the Neptune Meter Co.

The National Meter Co. is fighting for a part of the contract. City officials were desirous of dividing the contract, but City Solicitor Baker decided that this could not be done. He has reconsidered this decision, however, and says that, since the specifications under which bids were received declares that either rotary disc or piston meters can be purchased, it is possible to divide the contract.

Definite action was postponed until Monday.

COUNCIL DIDN'T ACT.

**Complied With Baker's Request in
South Brooklyn Matter.**

At the request of City Solicitor Baker the council committee on judiciary at its meeting last night took no action on Erdman's ordinance to accept the latest South Brooklyn annexation commission report. South Brooklyn has discharged its commission since the ordinance was presented.

A new one has been appointed and the old Cleveland members of the commission are now meeting with the new South Brooklyn body. A new report will be presented in the near future, it is expected.

CAN GET MONEY FOR THE SCHOOLS

**The Board Will Sell Bonds and
Improve Sanitary Con-
ditions.**

**City Solicitor Has Found a
Way to Relieve the
Situation.**

The school board has the power to issue bonds for the improvement of the sanitary conditions of the old school buildings without submitting the question to the vote of the people.

It is understood that such an opinion has been received by Director Orr from City Solicitor Baker in response to a request that he explain the laws. The opinion will be presented to the members of the committee on salaries and appropriations, to whom the matter was referred at a special meeting of the board last Saturday.

The opinion means that the school board has the power to proceed at once to issue bonds to relieve the pressing need of improvement of a large number of the old school buildings.

At a meeting of the members of the board with Health Officer Friedrich last Saturday a bond issue of \$200,000 was proposed by Director Orr to provide funds for the betterment of sanitary conditions, the renovating of old buildings and the providing of better means of heating and ventilation.

The school board will at once decide just what amount will be necessary to put the old buildings in good condition. Ever since the first of the year the old buildings committee and the committee on health and hygiene have been swamped with requests for repairs, and they were only able to attend to the most urgent cases.

Section 3994 of the new school code provides that in no case shall a board of education issue bonds to a greater extent than twelve mills or the limit of the tax levy for all school purposes. It is estimated that under the provisions of the law the school board could issue bonds to the extent of \$400,000 this year according to the difference between the school levy already made and the levy of twelve mills.

The board now has the power to go ahead and put all of the old school buildings in the city in good condition by the beginning of the next school year.

BUSINESS IN COUNTY COURTS.

**City's Attorneys Busy With Several
Cases at Courthouse.**

The city's attorneys are much engaged about the courthouse this week.

In Judge Lawrence's court yesterday, City Solicitor Baker and Prosecutor Levine looked after the city's interests in the case of Brooks against the city and Contractor John Wagner and in Judge Bushnell's court, Assistant Solicitors Estep and Payer are managing an appropriation suit brought by the city against the property holders along Morgan run valley. In the latter case a panel of thirty-six jurors has been exhausted, and a new venire was drawn Tuesday.

SAYS COMPANY GAVE UP GRANTS

It Surrendered Prior Rights
When it Took 25 Year Fran-
chise, Claims Baker.

Judge Sanders Holds State
Alone Has the Power to
Revoke Them.

The city in the United States circuit court yesterday morning gave the first indication of its ground for opposing the contention of the Cleveland Electric Railway Co. that the franchises of the Euclid and Central avenue lines and their branches are perpetual. City Solicitor Baker presented his arguments against the petition of the Cleveland Electric, asking that the city and the Forest City Railroad Co. be enjoined from ousting the existing company from the occupancy of the Central avenue line.

The basis of the city's stand, as indicated by Mr. Baker, is that the Cleveland Electric is estopped from its claim of a perpetual grant by a suit decided in its favor in 1891 in the state supreme court. The suit arose in 1891 over the Garden street branch, now the Central avenue line. In 1880 the council passed an ordinance giving the East Cleveland Railway Co. the right to make certain extensions to its lines. The company came into the council at that time, argued Mr. Baker, and surrendered the grants it was then operating under, and took in their stead a franchise for twenty-five years covering the Garden street line and its branches. That franchise is alleged to have expired March 22, 1905. A suit was brought involving that franchise in 1891. The company fought the action out through all the state courts. The circuit court held that the franchise was a valid one and that the company might operate under it until the expiration, said to be in 1905. The state supreme court upheld the circuit court in its decision.

The city, through the city solicitor, now claims that the decision of the supreme court, in upholding the street railway company in that contention that the company gave back all its prior rights and took others, acts as an estoppel against any claim on the part of the company that the franchises of the East Cleveland Railway Co. are never ending.

The arguments in the hearing over the petition for an injunction were concluded before Judge Tayler at noon yesterday. City Solicitor Baker occupied nearly two hours in the presentation of the arguments advanced by the city. Judge Sanders, representing the Cleveland Electric, took a half hour to reply to the arguments of Mr. Baker and Attorney Westenhaver of the Forest City Railroad Co.

After reviewing the circumstances of the decision of the supreme court, which he claims has adjudicated the claim of perpetual franchises so far as the company is concerned, Mr. Baker said: "It was effectively estopped when it went into the courts and secured a confirmation of the rights it then claimed. It cannot say now that the surrender of those prior rights at the time it accepted further grants from the city were merely temporary and that it now wants those rights back."

A series of maps were offered to the court, showing the status of the street railway situation in Cleveland from 1880 to the present time, and illustrating the various changes and consolidations in the companies operating street railway lines in that time. In connection with these maps, Mr. Baker argued that in view of the fact that the Cleveland Electric was not organized until 1893, the council could not be supposed to be legislating for it when it passed ordinances during the '80s relating to grants for extensions and similar concessions. This argument was offered in response to the argument of Judge Sanders that the ordinances imply the franchises of all lines are extended to the date of the expiration of the latest grant for an extension.

"All terminal facilities have been reserved as common or free ground," said Mr. Baker, "implying that the council reserved the right to enfranchise any other street railway companies. The council reserved the square as neutral ground. The viaducts over which the street railways must travel to reach the west side of the river are common ground. If intent should be taken, and I deny that it should be, it must be granted the council reserved the right to admit any or all companies into the transportation business of the city."

"The most anyone can do is to take each ordinance and read from that what the intention of the council was at that time. It is impossible to take all the ordinances relating to street railways and determine from them any settled and persistent policy on the part of the council as to grants and franchises."

Mr. Baker presented several ordinances, which he said had been granted to the Cleveland Electric for franchises subsequent to 1900, and all of which expired by limitation on March 22, last. These ordinances, he said, the Cleveland Electric had expressly accepted.

The reply of Judge Sanders was but a brief resume of the arguments advanced by him last Saturday when the hearing began. He touched again on the claim made by him that the franchises of the East Cleveland Railroad Co. were perpetual. "I want to say that the grants to the East Cleveland Railroad Co. were made by the state, and as they have never been repealed are still in force. The statements attributed to me that all grants made prior to 1878 are perpetual, does not enter into this case. Prior to 1878, it was within the province of the municipalities to grant rights without limit as to time. The right of a city to make a grant extend to the expiration of the franchise of the company was absolute. One grant by the trustees of East Cleveland township says: 'The grant shall continue during the corporate life of the company.' The company never surrendered those rights unless the court finds that the acceptance of ordinances by the city, after the annexation of East Cleveland village, worked as a surrender and placed a time limit on the grants."

"No right is perpetual in the sense that it cannot be revoked. It is revocable by the power that granted it. That power is reserved by the constitution. But the state that granted the rights has never repealed them, and, as I said before, they are still in force."

"The claim of the city solicitor and of Mr. Westenhaver is like the claim of Shylock. They want the letter of the bond."

"Shylock was right," was the reply of City Solicitor Baker.

"If a franchise was granted by the city council authorizing an extension to the Garden street line of 100 yards until 1915, would that serve to extend the franchises of the entire system of 236 miles to that time?" asked Judge Tayler of Judge Sanders.

"Most assuredly it would," answered Judge Sanders.

AWAITING CALL TO TAKE ACTION

Question of Securing Site for
New Building Before Li-
brary Board.

School Committee to Look
Into Joint Edifice
Project.

Important steps looking forward to the erection of a main library building in the group plan were taken by the library and school boards at meetings held last evening.

The matter of taking steps to purchase a site for the main library building was presented at the meeting of the library board by M. A. Marks, who presided in the absence of President Williams. He stated that City Solicitor Baker was looking up the matter of how the board could secure the money necessary for the project. He said that Mr. Baker would be ready to give an opinion on the subject by Thursday. It was decided by the board to recess to convene at the call of the president in order to take steps looking to the purchase of a site.

SCHOOL BOARD MAY ISSUE BONDS.

CITY SOLICITOR SAID \$200,000 FOR SANITARY IMPROVEMENT MAY BE OBTAINED.

[Vote of People Not Necessary—Director Orr Recommended the Action.]

City Solicitor Baker sent a communication to School Director Orr Tuesday, notifying him that the Board of Education had the power to issue bonds to the amount of \$200,000 for the improvement of the sanitary condition of the schools without submitting the question to a vote of the people.

At a meeting of the Board of Education last Saturday, Director Orr proposed the issuing of bonds to that amount and the question was submitted to Baker.

VILLAGE WILL DICTATE TERMS

South Brooklyn Won't be Absorbed Unless It Gets Electric Light.

Annexation Battle Will Now be Fought All Over Again.

Consideration of the question of annexing South Brooklyn to the city was undertaken for the first time by any committee of the present city council yesterday afternoon. The committee on judiciary, Messrs. Halle, Orgill and Dewar, met for the purpose of taking up the agreement presented by the latest commission. Heretofore the present council acted on the question only in the council, voting as politics dictated, without consideration of any kind. It was this action that gave rise to the first rumors of misconduct and charges of misconduct.

When the committee met Councilmen Wilke, Horner and Lewis, City Solicitor Baker, Messrs. C. H. Miller, Henry Froelich and J. W. Rogers, the South Brooklyn commissioners, and a few others were present. Immediate opposition to some parts of the report were expressed by all members of the committee.

Dewar suggested that the committee wait until the South Brooklyn council acted on the report before it will be taken up by the Cleveland council. The suggestion was not favorably received. City Solicitor Baker then explained the chief point of difference between the report and the former one. The new report says Cleveland shall take over the lighting plant and binds the city not to decrease the amount of electrical illumination now furnished in the village. Provision is also made for the continuance of commercial lighting to residents of the village.

Halle presented objections to the conclusions of Assistant City Engineer Vorce in an annexed exhibit, in which Vorce speculated and prophesied as to the probable cost of lighting by the plant if it was operated under certain conditions. City Solicitor Baker explained that Vorce's report was no part of the commission's report and therefore imposed no obligation on the council, and that the council could detach that if it saw fit, but Halle insisted that it was a part of the report and put something in it that did not properly belong there.

There was further discussion of the subject, Mr. Horner, although not a member of the committee, making vigorous objections to the new report, particularly that part which obligated the city to furnish the village with electric lights. From his expression as indicated yesterday it is not improbable that the fight on the part of the Republican council majority will be to eliminate from the report almost all reference to the electric lighting plant or the lighting with electricity of the village.

Horner explained that it would be unfair to expect, after annexation, to light that part now known as South Brooklyn with electricity when there were certain parts of Cleveland within a few minutes

walk of the square that were not so lighted. He wanted the report arranged so that the city could light with either gas or gasoline, if it was deemed best.

The South Brooklyn commission, appointed by the new Republican regime and supposed to be antagonistic to Mayor Johnson and his views, took a very different position and emphatically declared that unless South Brooklyn could be lighted with electricity and its citizens furnished with electricity in their homes, they did not want to be annexed to Cleveland.

"The committee will have several more meetings."

WILL COME UP TONIGHT.

Solicitor Baker Will Give Council His Opinion on Cross Town Franchise Ordinance.

City Solicitor Baker will give his opinion on the amended Doan street cross town railway ordinance to the city council tonight. The original ordinance calls for the granting of a franchise to the Cleveland Electric Railway Co. until 1914. The amendment, introduced by Councilman Felton, calls for the granting of a franchise to expire in 1908.

It is probable that the ordinance will come up for discussion following the opinion of Solicitor Baker. A tangle concerning the consents has also to be straightened out. The mayor is holding up the parkway consents and there is a contention as to the legality of other consents.

The administration has already signified emphatic opposition to the passage of the ordinance, or any other street railway ordinance, pending a settlement of the contention of the attorneys of the Cleveland Electric Railway Co. that franchises on fourteen of the lines are perpetual. It is said that nothing can come up which will change the mind of Mayor Johnson on the proposition that the council should abandon all attempts at any street railway legislation for the time being.

INJUNCTION SUIT WARMLY FOUGHT

Central Avenue Case is Being Argued Before Judge Lawrence.

Attorney Collister Claims the Council Exceeded Its Rights.

The hearing was begun yesterday morning in the injunction suit filed by William M. Reynolds to prevent the city from turning over the car line on Central avenue operated by the Cleveland Electric Railway Co. to the Forest City Railway Co. Judge Lawrence in common pleas court is hearing the arguments. The city is represented by City Solicitor Baker, the Forest City Railway Co. by D. C. Westenhaver and Reynolds is represented by C. W. Collister.

Reynolds filed a petition several weeks ago, asking that the city be enjoined permanently from transferring the Cen-

tral avenue car line to the Forest City Co., the suit being one of nearly a dozen that have been filed in the state and federal courts by the Cleveland Electric and private citizens, to the same purpose. A temporary restraining order was granted and this hearing is on the permanent injunction. Reynolds represents himself as a taxpayer and sues in the interest of himself and the public in general.

The morning session of the court was taken up largely by the reading of ordinances by Mr. Collister, bearing on the street railway situation. The grounds advanced by Collister in support of the petition are exactly similar to those advanced by the attorneys for the Cleveland Electric in similar suits. He argues that the franchises granted by the city to the original street railway companies for branch lines were designed to expire only at the expiration of the grants for the main lines. The city contends the Central avenue (or Garden street) line expired by limitation March 22 last. The Cleveland Electric and Reynolds contend it does not expire until the expiration of the main line in 1914.

"The council has no right to grant a franchise to any other company upon a thoroughfare where a line is already in existence, unless the franchise is offered as a renewal to the company already operating on the thoroughfare," declared Collister.

"It is right that a street railway should be free to operate and serve the public it was authorized to serve during the existence of its grants. It is also right that on the termination of the grant the council should be free to transfer that authority to anyone who will give the public the best and cheapest service," said Attorney Westenhaver.

In answer to Collister Westenhaver said yesterday afternoon: "The street railway franchises should be construed, both by the courts and the interested companies, with a view to the best good of the public. It is the public they are all serving, and if a strict interpretation of the ordinances creating grants is disputable it is just that they be interpreted in the way that will be most beneficial to the people in general."

Mr. Westenhaver quoted ordinances extensively and he read a number of opinions by the higher courts governing street railway franchises. He had just concluded argument when court adjourned.

City Solicitor Baker will speak to the court for a half hour this morning in opposition to the injunction. The hearing will probably be concluded today.

MUST GO TO LEGISLATURE.

Solicitor Baker Says Library Board Cannot Issue Bonds.

City Solicitor Baker yesterday prepared an opinion for the library board on the question of providing money for the erection of a new library building. Mr. Baker decides that the library board has no power to issue bonds and that it cannot secure any money without an act of the legislature.

President Williams of the board recently appointed a special committee to take up in conjunction with the school board the question of providing a new library for Cleveland.

INJUNCTION HEARING TODAY.

Suit Against Forest City Railway Co. to be Argued.

Judge Lawrence in common pleas court yesterday postponed the injunction suit of the Cleveland Electric Railway Co. against the city and the Forest City Railway Co. until today.

City Solicitor Baker was unable to be present yesterday.

BAKER FINDS MANY FLAWS

Reports on Cross-Town Line
Ordinance and Council
Kills It.

Felton Says "Too Many Fin-
gers in Pie" and Will
Try Again.

Councilman Felton's cross town line street railway ordinance, authorizing a grant for the construction of a line in Doan street and Woodland Hills avenue, was practically chloroformed in the city council last night.

City Solicitor Baker gave an opinion in which he literally picked the ordinance to pieces, finding so many flaws and objections that long before his opinion had been fully read, friends of the ordinance agreed among themselves that it should be withdrawn immediately.

When City Clerk Witt had completed the reading of the communication Felton immediately moved that the ordinance with the solicitor's opinion be referred to the committee on street railways. Croke seconded the motion and without an objection the reference was made.

"Yes, it means the death of the present ordinance," said Councilman Felton afterward. "I have not given up my fight for a cross town line, though. There were too many fingers in the pie in the preparation of this ordinance. It was amended too often."

"I shall prepare a new measure. It will probably differ from this one in a number of points. There are some people who advocate the withdrawal of an effort to extend the Woodland avenue line to the city limits. Such extension will probably not be referred to in the new measure. There may also be a number of other changes."

Mr. Baker's opinion, which killed the Felton ordinance, was asked for by the council a week ago and is as follows:

"Ordinance No. 193 by Mr. Felton, together with an amendment offered by Mr. Felton, are referred to me. I herewith return them to you."

"On the 13th day of March, 1903, I passed upon this ordinance, suggesting certain amendments. I did not at that time, however, comment upon any other feature of the ordinance than the power of the council to pass it, as will appear from my opinion upon the back of the ordinance. Since that time the case of the Cleveland Electric Railway Co. vs. the city of Cleveland in the circuit court of the United States has been tried upon an amended bill of complaint altering the character of the controversy."

"The ordinance in question in section 1 grants to the Cleveland Electric Railway Co. the right to extend its track in Woodland Hills avenue from Broadway to Quincy street, thence over its present track in Quincy street to Doan street, thence northerly in Doan street to its present tracks in Superior street so as to make a through and continuous track from the intersection of Superior street and Doan street to the intersection of Woodland Hills avenue and Broadway."

"The ordinance further grants permission to the company to extend its double track street railroad in Woodland avenue from Woodland Hills avenue easterly to the city limits and in Woodland avenue from Wood-

land Hills avenue westerly to South Woodland avenue to connect with the present track in Woodland avenue.

"Section 4 of the ordinance describes all the privileges granted in the ordinance as extensions of the tracks authorized to be constructed under ordinance of the council passed Sept. 23, 1899, and being the ordinance under which the present Broadway line of the Cleveland Electric Railway Co. is operated."

"Section 6 of the ordinance in its present form says, though the meaning is somewhat unhappily expressed, that the privileges above enumerated, except for the extension of Woodland from city limits to South Woodland avenue, shall expire on the 1st day of July, 1914. No provisions for the expiration of the extension, except from the above, is made."

"The Felton amendment consists of two proposed changes, first the substitution in section 6, line 1, of the word 'including,' for the words 'except for,' the effect of this change is to fix the time of expiration of all the grants proposed to be made by the ordinances as the first day of July, 1914; the second change proposes to insert in line 6 words struck out by a previous amendment, as follows:

"But the permission of extending the tracks to be constructed in Woodland avenue from the city limits to South Woodland avenue shall expire Feb. 10, 1905."

"Manifestly, the two changes are inconsistent: one fixes the time of expiration for the track to be constructed from Woodland Hills avenue to South Woodland avenue as 1914, and the other fixes it at 1905; for this reason the amendment should not be adopted, but some other amendment or substitution should be made which would make clear the meaning of the council with regard to the proposed extension."

"I think I should call attention to the fact that ordinance No. 193, by reason of the various amendments, changes, alterations, erasures, substitutions and modifications, both in the body of the ordinance and in the indorsements on its back, has now become so confused that before the passage of any such ordinance a substitute embodying its final form should be adopted by the council. An inspection of this paper will, I think, show that it ought not to be passed as a legislative act by the council in its present form."

"The things proposed to be done by this ordinance are, as I have indicated, the construction of a further cross town line from Broadway to Superior street, with the reciprocal issuance of transfers between the line proposed to be constructed and the various intersecting lines owned and operated by the grantee company and the connecting of the tracks proposed to be constructed with the tracks of the twelve other lines operated by the grantee. In addition to that the ordinance as a separate subject matter purports to grant to the grantee company the right to construct an extension of the Woodland avenue line."

"As the council is aware it is claimed by the city in an action now pending in the supreme court of the United States that all of the rights of the grantee company in Woodland avenue have expired and the council has renewed those rights to another company, so that any extension of those tracks to the grantee in this ordinance is inconsistent with and prejudicial to the position of the city in the case above described. If the rights of the grantee company have expired in Woodland avenue the council has not power to authorize it to extend its tracks. For this reason this ordinance ought not to be passed by the council."

"In the case now pending in the circuit court of the United States with regard to the rights of the grantee of this ordinance in Central avenue and Quincy street it is now asserted by the Cleveland Electric Railway Company that any extension of tracks authorized by the council or the reciprocal issuance of transfers between any existing line and a new line operated by inevitable necessity to prolong the life of the line extended or as to which transfers are to be issued until the expiration of the extension of the new line."

"The council is now publicly apprised by the Cleveland Electric Railway Co. of the character of its claims and the passage of an ordinance subsequent to public notice of that claim which authorized the construction of a cross town line compelled to issue transfers to the Central avenue and Woodland avenue lines and which in part is an extension of both of those lines and having for a date of expiration July 1, 1914, might by the Cleveland Electric Railway Co. properly be urged upon the attention of the courts as prolonging the life of all intersecting grants."

"I am not unaware that section 7 of this ordinance, as amended at my suggestion, attempts to obviate this result, but the

contention of the Cleveland Electric Railway Co. is that this result follows from inevitable necessity and that any attempt on the part of the council to prevent that result would necessarily be unavailing."

"For all of these reasons I respectfully submit to the council that this ordinance ought neither to be amended by the incorporation of the suggestions of the Felton amendment or passed."

In addition to the above Mr. Baker presented an opinion to the council bearing on the consents presented for the building of the line. Concerning them he says simply that he has examined the consents and finds that there is an apparent majority in favor of the construction of the road.

"There are many cases," he says, "of consents signed by agents and other persons, where the authority of the agent is not given, but this department has no means of finding out whether or not such consent was really authorized."

A petition, signed by Doan street property owners representing 3,052 feet of frontage, was presented to the council protesting against the granting of a franchise, while several consents were withdrawn and two or three new ones were presented.

COMPLETES THE KILLING.

Council Committee Reports Adversely on Woodland Hills Avenue Franchise Ordinance.

Believing, perhaps, that the action of the council last Monday night was not effective enough in killing the Felton cross town line ordinance the street railway committee of the council, to which the ordinance was referred, yesterday placed the finishing touches on the measure. After due deliberation the committee adopted the following report, which will be presented to the council at its next meeting:

"Concurring in the opinion of the city solicitor as to the effect of the many changes and amendments to this ordinance, we report adversely to its passage in its present form, and would recommend that a substitute ordinance be introduced."

Mr. Baker did not recommend the passage of a substitute measure.

MADE COPIES OF GRANTS.

Franchise Ordinances Submitted to Judge Tayler by City Solicitor Baker.

City Solicitor Newton D. Baker Saturday completed the compilation and placing in convenient form the many city ordinances granting franchise rights to the Cleveland Electric Railway Co. and its predecessors, for the use of Judge Tayler of the United States court. These ordinances were often referred to in the recent hearing of the railway company against the city in the injunction suit to restrain the city from taking the Central avenue grant away from the company.

It was in this hearing that Judge Sanders, representing the company, made his claim that many of the grants of the company are perpetual. Mr. Baker filed the ordinances with Judge Tayler Saturday afternoon.

BARRY'S BILLS REFERRED.

Opinion Asked of City Solicitor as to Former Sheriff's Claims.

Former Sheriff Edwin D. Barry's bill against the city for \$1,079 for feeding city prisoners in the county jail during his term of office and \$511 for jail fees, account of these prisoners, was referred to the city solicitor yesterday by the board of public safety. The board requested that a bill be passed on the legality of the bills, particularly as to the jail fees demanded.

Attorney F. L. Taft appeared before the board in behalf of Barry to secure payment.

SAYS SLEEP COMES ONLY WHEN SHE LEANS ON CRUTCHES.

There was a grinning skeleton in Judge Tayler's court room Thursday morning. Its dried bones rattled in the chance breezes and its arms swayed grotesquely as the experts turned it here and there for the edification of the jury. No one was half so frightened at the gruesome exhibit as at the enormous words which rolled mellifluously from the lips of the doctors.

As in the second trial of Nan Patterson, the skeleton was brought to court to help in the testimony. The case was that of Mrs. Nellie M. Theobald, who is suing the city for injuries she says she received April 19, 1904, by a fall on a defective sidewalk. She claims the base of her spine was hurt and she asks \$25,000 damages.

Mrs. Theobald is represented by Judge Wing and R. B. Newcomb, who also is a graduate of a medical college. The plaintiff was the first witness. She was extremely nervous during her recital of the story of the fall. She said she was unable to sit or lie down, and the only way she could get any sleep was in a standing position, leaning against the wall, while supported on crutches. Asked to describe her feelings, she said: "I cannot, except that it constantly feels like hot steam buzzing on my brain."

Dr. Henry C. Luck, specialist in diagnosis, was examined by Atty. Newcomb. Dr. Luck stood as he gave his demonstration, turning the grinning skeleton around and rattling its bones as occasion required.

Some of the scientific phrases bothered the stenographers and puzzled the jurors.

Dr. Luck testified that he found the coccyx absent in Mrs. Theobald. He showed the location of the coccyx on the skeleton. The coccyx is described as the caudal end of the spine in man and anthropoid apes composed of three or four ankylose vertebrae.

Dr. Luck said he doubted whether Mrs. Theobald would be able to obtain any relief unless by special operation. The operation would be dangerous. He was cross-examined by Solicitor Baker.

Dr. Burke, former coroner, was a witness. Health Officer Friedrich testified for the city that a proper operation at the right time would have relieved her condition greatly.

HEALTH, SAFETY AND WELFARE

City Can Require Street Railway Company to Insure Public These Things.

Solicitor Baker Outlines Council's Powers in Communication.

Replying to the councilmanic resolution of Mr. Haserodt, passed by the council Feb. 20 last, asking City Solicitor Baker to state to the council what rights, if any, the council has in the regulation of street railway service, Mr. Baker last night sent the following communication to the council:

"On the 20th day of February, 1905, the council adopted resolution No. 349, introduced by Mr. Haserodt, requesting the city solicitor to inform the council, at his earliest opportunity, what rights, if any, the council has in the matter of the regulation of street car service of this city.

"In reply I beg leave to say that the opinion requested by the council is upon a very large subject, and that it is not possible within any small compass to give a circumstantial account of the rights of the city beyond a general statement that in the exercise of the police power the council may prescribe regulations contributing to the comfort, safety and health of passengers, the protection of the public highways and the use of such appliances as will protect persons and property.

"As the council is aware, an ordinance granting a franchise or a renewal is a contract between the city and the company accepting its terms, and in so far as such an ordinance stipulates the conditions under which service is to be performed, that contract cannot be altered either by a change in its terms or by the addition of other conditions with-

out the consent of both parties. This statement, however, must be limited to this extent; that it is not competent for the city to contract away any portion of its police power, so that no matter what the terms of the contract, there is necessarily reserved to the city the right to make additional regulations either to those embodied in the general ordinance at the time of the making of the grant or renewal, or to those embodied in the contract itself, when such additional regulations are necessary to protect the public health and property.

"When councils have passed ordinances attempting to exercise regulation upon street railroads, and these ordinances have been brought to the courts, the only questions permitted to be argued were whether or not the ordinance was passed in good faith and was a reasonable regulation of the company in the interest of the public health or safety of persons and property. A large number of such cases have of course arisen; as, for instance, it has been held that the council may, within reasonable bonds, determine and direct as to the servants and appliances to be employed in operating cars, may provide that electric cars cannot be run without a conductor; it may prohibit the use of certain kind of rail in future construction; it may regulate speed, provide for signals at crossings and elsewhere, provide for the proper cleansing and sanitation of cars, prohibit spitting in cars and standing on rear or front platforms; it may compel street railroad companies to remove snow from their tracks, not to interfere with the natural flow of water through a street by obstructing a gutter or otherwise; compel the placing of electric conductors underground and regulate the manner of insulation of exposed wires and appliances.

"Further enumeration of points decided in special cases would probably not be serviceable to the council, as any particular regulation which the council might desire to pass would necessarily have to be submitted to this department in the first instance for the determination of its legality, and, if it were contested by the company, would ultimately have to be passed upon by the court. The general rule is that the city or its authorized agents may require a street railroad company to do whatever is required for the health, safety and welfare of the people, and ordinances passed in good faith for any of these objects so long as they do not unnecessarily limit or restrict the operation of the railroad or impose unreasonable burdens upon the company will be sustained."

THE LAW AND MAYOR'S PLAN.

"The law under which Mayor Tom's proposition to the Concon can be carried out is the statute which provides for the chartering of corporations," said Solicitor Baker. "The holding company proposed by the mayor to lease the railroad company's property could be chartered just like the hundreds of companies that obtain charters every day in Ohio. The city would not appear in the transaction."

JOY AT THE CITY HALL.

But Mayor Says Central Avenue Fight is Far From Settled Yet.

Judge Tayler's decision was received with enthusiasm at the city hall.

Mayor Johnson and City Solicitor Baker were jubilant.

"I knew we were right, but I have better reason for my belief now," said the mayor. "I presume an appeal will be taken and of course the case will not be definitely decided until the supreme court passes on it.

"The company will probably secure a temporary injunction pending the appeal.

"The common pleas court injunction also ties up the case. The United States court has decided that the Central avenue franchise has expired. The case in common pleas court is to decide the validity of the grant made to the Forest City Street Railway Co."

BODY BLOW FOR CLAIM TO PERPETUAL GRANTS

Judge Tayler Refuses to Enjoin Low Fare
Company From Taking Possession
of the Central Avenue Route.

MAYOR MAKES PROPOSITION TO ANDREWS

Street Railway Conference at City Hall—
Chamber of Commerce Subway Commit-
tee Meets—Councilman Hitchens
Introduces Franchise Ordinance.

An acute stage of the street railway situation in Cleveland was reached yesterday. From unexpected quarters came unexpected things, and an early solution of the perplexing problem of urban traffic seems more promising than at any previous time in the last four years.

The development of paramount importance yesterday was the decision by Judge Robert W. Tayler, in the United States circuit court, in which he refused to enjoin the Forest City Railway Company from taking possession of the Central avenue car route of the Cleveland Electric Railway.

FIRST VICTORY FOR THREE-CENT FARE.

After four years of fighting and litigation it was the first real victory for three-cent fare. But even this case is not ended, and it will be carried to the Supreme Court of the United States to settle the constitutional question raised by the Cleveland Electric Railway Company, which claims that its right of property and contract has been assailed by the city and the Forest City Railway Company.

Immediately following the decision of the court President Horace E. Andrews, of the Cleveland Electric Railway Company, and Mayor Tom L. Johnson held a conference looking toward a settlement of the street railway question.

Mayor Johnson suggested that a holding company be organized to lease and operate the property of the Cleveland Electric Railway Company, guaranteeing a fair dividend to the stockholders. The plan carried with it a sharing of the profits by the city. President Andrews' reply to this proposition will be made next week.

During the afternoon the subway committee of the Chamber of Commerce conferred with Mayor Johnson and City Engineer Carter regarding plans for the projected "tube" and a more adequate method of handling the traffic through the Public Square.

In the city council last night, Mr. Hitchens introduced an ordinance fixing a basis of eight tickets for a quarter, five cents single fare and universal transfers, with a renewal of the Cleveland Electric Railway Company's grants to July 1, 1925, on all the lines, for the settlement of the present street railway controversy concerning franchises. The ordinance was referred to the council committee on street railways and to the city solicitor.

Second—Whatever be the duration of a grant, whether limited or unlimited, it may be changed by contract between the city and the grantee of the right, subject only to the proviso now in force, that no grant shall be valid for more than twenty-five years.

Third—Neither the consolidation of the street railway lines into one company and one system, nor the transfer obligation imposed by the Willson avenue ordinance, operates to prolong the life of any prior grant.

Fourth—An extension of the life of a grant by implication is not favored, and will not be declared, except when clearly manifest and obviously necessary; and this rule is invoked with special propriety where the implication is sought to be made in ordinance, not one of which, in its title, gives the slightest intimation of a proposed deal with the subject of the life of a grant.

DOES NOT EXTEND MAIN LINE GRANT.

Fifth—Permission to extend tracks and operate them "in connection with the main line" for a period which endures longer than the right to operate the main line will not have the effect of extending the main line grant.

Sixth—The ordinance of March 10, 1890, authorizing the substitution of electricity for horse power on the Garden street (Central avenue) branch, fixed a uniform period for the termination of the franchise of the Garden street line over its entire length to Woodland Hills avenue, and abrogated, by consent of both parties, any prior contract for a different date, if any such there was.

THE CENTRAL AVENUE FRANCHISE LITIGATION.

Among the first steps taken by Mayor Johnson in his campaign for three-cent fare was an investigation into the franchises upon every street car line. He obtained an opinion as to when each would expire. Among others he was informed that the Central avenue route grant would expire March 22, 1905. Accordingly arrangements were made to offer this route to the company which would carry passengers at the lowest rate of fare. A bid of three cents was made by the Forest City Railway Company. The grant was awarded to this company and the necessary legislation prepared and an ordinance passed. The company was to take possession March 22, 1905.

The Cleveland Electric Railway Company, then as now, operating this route, opposed the claim made by Mayor Johnson and later enacted into official record by the city council. The assertion of the operating company was that the Central avenue franchise did not expire until July 13, 1913. The result was a lawsuit and the application for an injunction against the city and the Forest City Railway Company. In denying the injunction yesterday Judge Tayler reached the following conclusions:

CONCLUSIONS REACHED BY JUDGE TAYLER.

First—Prior to the act of May 14, 1878, it was competent for the counsel to make grants for street railway purposes, either with or without limitation as to time.

Seventh—An "extension" is not a new route; it has no independent life; it depends upon, and is a part of, the line to which it is added; and, as it could have had no legal existence without the original line, so it can have no tenure of life beyond that of the original line.

Eighth—The Garden street branch was established as a "route," and is an original line; the franchise to operate it, including all of its extensions and additional tracks, expired March 22, 1905.

A decree may be taken in accordance with this opinion, and it ought to be framed as if upon final hearing.

It was a sweeping and far-reaching decision in which the United States circuit court, speaking through Judge Robert W. Tayler, refused to enjoin the Forest City Railway Company from taking possession of the Central avenue car line route under a granting franchise given by the city council January 11, 1904.

Under the decision the city is at liberty to carry out its contract with the three-cent fare company, as an injunction against it was also refused.

Grant Expired March 22.

In short the court held that the Cleveland Electric Railway Company's franchise for the Central avenue route expired March 22, 1905. It was upon that date the Forest City Railway Company was empowered by the city to take possession of the route. Before possession could be taken by the new company the old company obtained a temporary restraining order to prevent such a step.

It was upon a motion for a temporary injunction against the three-cent fare line and the city that yesterday's decision of the court was based. Although the decision was legally upon a preliminary point and not upon the finality of the controversy, yet the holding of the judge was in effect final, as the court will not be of a different opinion in the case unless new evidence is produced by the Cleveland Electric Railway Company. The court directed the parties to the litigation to consider the decision as final.

The way is still open for the attorneys for the Cleveland Electric Railway Company, Squire, Sanders & Dempsey to appear in court and ask for a final order. In the event no new evidence is presented the order of the court in such event will be the same as that of yesterday. If new evidence is offered it will be considered and argued in full.

Go to Supreme Court.

There are no expectations that this will be done, except possibly to ask for a final order, as the case will doubtless go directly to the Supreme Court, where a stay of execution will be applied for. This may not be done either, as there is little probability that the three-cent fare company will take advantage at this time of the holding of the federal court. The company is restrained from doing what the United States court now says it can do, in a suit in common pleas court begun by William J. Reynolds, a taxpayer, in which he also seeks the same relief as prayed for by the Cleveland Electric Railway Company, in the United States court.

In addition to this it is the declared intention of the officials of the three-cent fare company and the city not to take advantage of the federal court decision, as they prefer to fight their case in court rather than in actual physical contact.

In his decision Judge Tayler delivered a body blow to perpetual franchises in Cleveland. The court did not deny the right of the city to grant perpetual and never-ending franchises prior to 1878, but held that any franchises granted for a limited number of years were valid if accepted by the company.

Perpetual Grants Wiped Out.

"All rights of the Cleveland Electric Railway Company, through its predecessors, to perpetual franchises have been wiped out by its subsequent contracts entered into with the city," Judge Tayler said upon this point, and added: "All of the ordinances passed

by the city of Cleveland and by the village of East Cleveland, as well as those passed prior to 1878, as those passed since that time, fixed a time limitation on the grants and renewals given the street railway companies.

"The only unlimited grant is that given by the township of East Cleveland."

"Prior to 1878 the city had the right to limit the term of a street railroad franchise. Even if it did not have such power any rights thus obtained by the railway company have been, for valid considerations, yielded up to the city."

In reviewing the evidence presented in support of and opposition to the Central avenue franchise the court found several reasons for refusing the injunction asked for, upon the facts, and so stated, but his position was based almost entirely upon an original legal conclusion, as follows:

Beyond Council's Power.

"I have reached the conviction that it is beyond the power of the city council to endow an extension of a railway with a duration of life extending beyond the life of the line which is extended."

"One might as well say a human foot could survive after the vital organs have ceased to exist."

It was upon the claim that the grant of the Central avenue line had been prolonged through a grant for an extension, of even longer life, that Judge William B. Sanders based his argument for the Cleveland Electric Railway Company.

The decision of Judge Tayler was received with great surprise in every quarter. A victory was not anticipated by Mayor Johnson. The most immediate and pronounced effect of the decision was felt in the stock exchange, where Cleveland Electric shares dropped suddenly four points—from 80 to 74.

"Daniel Come to Judgment."

"A Daniel come to judgment!" I'm too happy to talk," was Mayor Johnson's comment as he mixed Shylock's observations of Portia with something more American, when he first heard of the ruling by the court.

"It's a big victory for the city and the credit is due Attorney D. C. Westenhalter, who represented the Forest City Railway Company," City Solicitor Newton D. Baker said. Mr. Baker took a conspicuous part in the arguments to the court in opposing the claim of the Cleveland Electric Railway Company.

President M. A. Fanning, of the Forest City Railway Company, was more cheerful at the news than his words would indicate. "As soon as the courts permit we shall open negotiations with the Cleveland Electric Railway Company for possession of their property upon the streets," he said.

"The case is in the hands of our attorneys and they will have to fight it out," President Andrews, of the Cleveland Electric Railway Company, said when he heard of the decision.

Central Avenue Route.

The Central avenue route is from the corner of Prospect street and Erie street, south on Erie street to Central avenue, east on Central avenue to Lincoln avenue. It also has a branch line from the corner of Central and Willson avenues, south on Willson avenue to Quincy street, east on Quincy street to Woodland Hills avenue.

The decision of the court, as expressed by Judge Tayler, was in part

as follows:

"This hearing, so far as the court is concerned, is practically a hearing on the merits."

"The claim of the complainant is that prior to 1878 the city had no right to limit the term of street railway franchises; that it possesses unlimited franchises on the original East Cleveland Railroad Company's routes; that its system is a unit; that the Willson avenue franchise gave the company's lines life until 1914; that Central avenue was not a new route and that its franchise lasts until July 13, 1913."

Limitation of Franchises.

"Prior to the act of May 14, 1878, the Legislature had not undertaken to use the authority which it possessed to put any limit upon the time which might be granted by a municipal corporation to the right of a street railroad company to occupy streets. After that the Legislature withdrew from the municipality all power it may have had prior to that time to grant such franchises for a period in excess of twenty-five years."

"All of the ordinances passed by the city of Cleveland and by the village of East Cleveland, as well as those passed prior to 1878 as those passed since that time, fixed a time limitation on the grants and renewals given to street railroad companies. The only unlimited grant is that given by the township of East Cleveland."

"Prior to 1878 the city council had full power to limit the term of a street railroad's franchise to occupy the streets. Even if it did not have such power and the limitation was invalid, nevertheless any right which may have accrued to the predecessors of the complainant, as well as the right to an unlimited franchise, have been, for valid considerations, yielded up to the city."

"If on March 22, 1880, the complainant had an unlimited grant on the Central avenue line, it gave it up for a twenty-five-year franchise."

"If the city could grant the unlimited franchise it could also grant one for a limited period. The greater power should include the less."

"A limitation prior to 1878 by the city would have been valid."

"All rights of the complainant company to perpetual franchises have been wiped out by its subsequent contracts entered into with the city."

"I am not impressed with the force of the claim concerning the effect upon the system of railway. Unity of management, fares, transfers and responsibilities is a thing much desired, but the life of a part must not control the system, and it is not true that any one part of the system is essential to the operation and life of the system."

"The public cannot be held to have parted with fundamental rights, except by clear and explicit language, or by implication equally clear. This rule of law must not be relaxed. It is essential to the preservation of the rights of the people for whose benefit legislatures and municipal councils are created, and public service corporations permitted to exist."

Power of the Council.

"The council is not only merely representative of the people who elect it, but it is also the representative of the sovereign. Restrictions are vain if the checks put upon the methods of municipal legislation are not to be respected when they deal with fundamental rights."

"A man may find himself parting possession with his property even when he did not intend to do so; but this is all but impossible with a municipal corporation. Indeed, a municipal corporation, through its council or officers, may sometimes make strenuous efforts to part with its property or with public rights, and fail in the effort."

"But to say that a municipal corporation has parted with one of its powers of sovereignty by implication is to assume that which, while not impossible, can only be supported by the

strongest proof.

"If it be true that to grant the right to build an extension and permit its operation as much in connection with the system of which it forms a part, for a period beyond the duration of the system's franchise, is to extend to that date the franchise of the system, then we must conclude that the council may give away the public's property and the rights of the community, without knowing it is doing so, and while striving not to do so.

An Ingenious Argument.

"It is most ingeniously and plausibly argued that, to give the right to operate in connection with the main stem the extension of an existing line to a time beyond the time allotted to the existing main line, is, by implication, to extend the periods of right to operate the main stem, because if it were otherwise it would lead to an absurdity and leave the fragmental extension alone and incapable of operating when the franchise of the main stem expired.

"If it be true that an extension would prolong the life of a main line, perchance a careless or generous or complacent council might extend the life of the 236 miles of line in dealing with a few hundred feet of track extension.

"No doubt the vigilant representatives of the railway company will always endeavor to procure the longest possible term for the most trivial extension.

"It is intolerable to think that, instead of using direct, explicit and easily framed language to grant a great right which only the sovereign can grant, it may be conveyed by an implication to be raised by a process of reasoning which the lay mind has difficulty in comprehending, and which it could hardly discern at all if not pointed out; and that this implication may be so derived from apparently innocuous and insignificant words lost in the mazes of an ordinance of relatively small consequence. Fundamental powers of the sovereign to be used by a delegated body, naturally untrained in the law's learning, and rigidly restricted in its use, are not to be so exercised.

Other Cogent Reasons.

"Nor are we denied the possession of other cogent reasons reaching the same conclusion. It is most significant and astonishing that in no single instance of an extension ordinance does the title of the ordinance state that any such object was in view, or that any extension of time for expiration of the main line was involved in the permission thereby given for the construction of an extension.

"The law explicitly requires that the subject of an ordinance be clearly expressed in its title.

"What could more surely do violence to the letter and spirit and purpose of that legal requirement than to say that an ordinance entitled an ordinance to permit some petty and relatively unimportant extension should be found to contain within its sophistical implications a grant renewing, for a term of years, an important and far-reaching franchise? Can it be justified on the ground of reason or propriety?

"Whatever the contention be or however the Central avenue ordinance may read it was wholly wiped out by the new ordinance authorizing the use of electricity and changed the termination of the Central avenue line to March 22, 1905.

"I have reached the conviction that it is beyond the power of the council to endow an extension with a duration of life extending beyond the life of the line which is extended.

Branch of Original Route.

"The Central avenue line was not an extension of the East Cleveland Railroad Company's line, but was a branch possessing all the characteristics of an original route.

"An extension must have the same life as, and no more than, the line, branch or route of which it is an extension.

The granting by the council of the right to extend a street railway line is not the giving of a franchise, but the expansion or enlargement of a franchise already given. It is nothing more than a subsidiary franchise. It is not original. It can have no life, no power, which do not belong to the original line. It is a mere incident of a contract. Only a part. The effort of the council to give it life beyond the life of the main stem is not effective.

"One might as well say that the human foot could survive after the vital organs have ceased to exist; that where there is one life-giving center, the things which grow out of it and are subsidiary to it, may live after the life-giving center has ceased to have life. The whole theory of the claim that an extension can live longer than the thing extended is at war with reason, and with the nature of things."

The Mayor is Elated.

"A Daniel come to judgment," was Mayor Johnson's exclamation Monday noon, during the reading of a summary of Judge Tayler's decision on the street railway franchise, when the point was reached in which it is stated that the Central avenue franchise had expired March 22, 1905. The decision was read to the mayor in his private office in the presence of a number of city hall officials and councilmen, who had dropped in on hearing the news. President Fanning, of the Forest City Railway Company, was also an early caller on the mayor after the giving of the decision.

"I'm too happy to talk," was Mayor Johnson's first remark when asked to make a statement. "Of course we've held that all these things were true right along. A stay of execution will probably be asked for, but it doesn't make any difference whether they get it or not, as the Forest City Railway Company is not in a position to get in anyway on account of the injunctions which have been brought against it."

Big Victory, Baker Says.

City Solicitor Baker was elated when he heard of the decision. He had not yet read the opinion of the judge, which covers more than forty pages of type-writing.

"It would seem," said Mr. Baker, "that the city has won a big victory. Judge Tayler refused to grant the injunction against the Forest City Railway Company. The Cleveland Electric Railway Company asked for this injunction on the alleged ground that a contract between it and the city gave it the right to operate its cars in Central avenue. The city contended that the Central avenue grant had expired; that nothing stood in the way of giving the Forest City Railway Company a franchise on that thoroughfare. Judge Tayler has recognized the position of the city by declaring that the Central avenue franchise of the Cleveland Electric Railway expired on March 22 last. The decision means that there is no contract between the existing company and the city, and a big victory for low fare has been won."

Grants Not for Sale.

In commenting upon the decision President M. A. Fanning, of the Forest City Railway, said: "Our franchisees were never for sale, but they are now less so than ever. We obtained the grants on pledges of three-cent fare to the council and the people and we regard them as obligations not to be violated. We stand ready to take over the expiring grants of the Cleveland Electric Railway as they become ineffective and run cars thereupon for three cents per passenger.

"Of course, the decision of Judge Tayler does not affect us greatly since we are held up in other courts. As soon as the decisions in these courts are made, if they are in our favor, we will go ahead on a business basis. The first operation would be to open negotiations with the present company for its tracks and other equipment, but that must await upon the courts' decisions

still to come."

For Lawyers to Fight.

Asked what would be the action of the lawyers of the Cleveland Electric Railway Company, President Andrews said last night that the case would be carried to the highest courts.

"The whole matter is in the hands of our counsel," Mr. Andrews said. "It is for them to fight it out now. I wish to say in behalf of President M. A. Fanning, of the Forest City Railway, that he was in no way to blame for the offer that was made. There was nothing in the transaction that reflected in the least upon him personally. I regretted the necessity of having to use his name as the accredited representative of the company."

LEGAL RIGHT TO DO THE WORK.

**BAKER DECIDES PRIVATE
COMPANY MAY COMPETE
WITH ILLUMINATING
CONCERN.**

**CITIZENS MAY GET CHEAPER
LIGHT IF THE PLAN
WORKS.**

Server Springborn's controversy with the Cleveland Electric Illuminating Co. over the lighting of the city hall may result in Cleveland people getting electric light at a much lower figure. It may also result in the illuminating company losing a great slice of its present patronage.

Springborn has held up bills of the company to the amount of \$6000 and has contracted with M. A. Bradley to light the city hall. The illuminating company rate is 12 cents a unit or a flat rate of \$240 a year to light the hall. Bradley will furnish the light for 4 cents a unit. The contract will be formally approved at the next meeting of the servers. Meantime the new contractor is preparing to run wires underground from one of his power blocks on St. Clair-st.

It is thought that when it becomes generally known that the power companies will furnish lights at one-third the price charged by the illuminating company, that many of the latter's patrons will make an effort to have the power companies do their lighting. This can be done in many parts of the city.

Solicitor Baker has furnished an opinion to Server Springborn to the effect that it is legal for Bradley to run his wires under ground to the city hall and enter into a contract with the city. If this can be done with the city it is argued that private individuals can get light from the same source.

UNANIMOUS FOR A JOINT BUILDING

Library and School Board
Committees to Work
Together.

City Hall Site is Decided to be
Most Desirable Lo-
cation.

Cleveland will have one of the finest library buildings in the country and it will be located on the present city hall site if the sentiments expressed at a joint meeting last night of a committee from the school board and a committee from the library board are carried out.

The two committees went over the matter of erecting a joint building, and at the conclusion of the meeting unanimously adopted a resolution stating that "it was the sense of the meeting that if the legal and financial conditions would permit the two boards would work together and occupy a joint building."

The school board was represented by President S. P. Orth, F. H. Haserot and William Leopold. The library board was represented by President C. D. Williams, O. M. Stafford and M. A. Marks. President Orth of the school board was selected as chairman and told of the needs of the school board. Mr. Orth also brought up the matter of the Rockwell school property. He suggested that the property could be sold and the proceeds turned over to a fund for land and a joint building.

The matter of the location of such a building then came up for discussion and the city hall site seemed to all to be the one most suitable. President Williams of the library board said that the land of the present city hall site would cost \$1,000,000, and that a library building which would set off the federal building in the group plan would cost \$2,000,000.

The opinion of Solicitor Baker was read in which it was stated that there was no law authorizing the issuance of bonds for library purposes. The question was raised as to whether or not the next legislature could enact a law providing a bond issue for library purposes.

It seemed to be the general opinion that the school board should pay only a fractional part of the expense of a joint building on account of the demands on the board for the building of new school buildings. The matter of securing the city hall site and building only a third of the contemplated building until a five-year lease on the city hall expired was broached and found favor.

President Orth of the school board called attention to the two library laws, one a special law under which the library system of the city is now operating and the other a recent general law. He said that it was his opinion that if a test case was made of the present law that it would be declared unconstitutional. He read the part of section 3398-I, section 1, providing that the board of education of any city district may by resolution provide for the establishment, control and maintenance of a public library "and for that purpose may acquire by purchase the necessary real property, and erect thereon a library building." He said that under that section of the new general law he thought

that the board of education was empowered to purchase the land, erect a building and then turn it over to the library board.

Librarian Brett, who was present and acted in the capacity of secretary, was instructed to write to Solicitor Baker in reference to the part of the law referred to by Mr. Orth. Librarian Brett was also instructed to ask Solicitor Baker whether the limit of the indebtedness of the city had been reached by which money could be secured for the purchase of the site and the erection of a joint building. President Orth of the school board stated that he received a very unsatisfactory answer from the attorney general regarding his request for an opinion on the library laws.

As soon as the opinion of Solicitor Baker is received another meeting will be held.

The library matter will be brought to the attention of the group plan of the Chamber of Commerce and Librarian Brett will address the committee in the near future regarding the status of the new library.

HOLDS LEASING SCHEME LEGAL

Baker Says Plan is Perfectly
Feasible From Point
of Law.

Make Up of Commission Con-
sidered the Chief Ques-
tion.

There was a dearth of developments in street railway matters yesterday, due chiefly to the absence from the city of the principals in the controversy, Mayor Johnson and President Andrews of the Cleveland Electric Railway Co. This lack of real developments did not abate one whit the public discussion of the situation, however, particularly the discussion of the new plan proposed by Mayor Johnson for settling the long and bitter fight.

Efforts to find flaws in the leasing scheme were not overlooked. City Solicitor Baker declared early in the day that the plan could be made effective. He said the law under which it could be accomplished was the statute which provides for the chartering of corporations.

"The holding company proposed by the mayor to lease the property could be chartered just as the hundreds of companies that obtain charters every day in Ohio," he said. "The city would not appear in the transaction."

The opinion was accepted as settling the probable method and then those discussing the matter concluded that the success or failure of the plan would depend entirely upon the character, personnel, etc., of the men composing the holding company. The great danger, those who tried to pick flaws in the scheme said, would be in a commission more favorably disposed to the old stockholders than to the interests of the people.

"That is the grave danger," said a prominent official, who did not desire his name used. "Suppose," he continued, "that this commission, after the plan is made effective, became imbued with the idea that the scheme was not as successful as it should be, or that it would serve its interests to a better purpose to return the property to the original stock-

holders. This, of course, is merely speculation."

From a discussion of this kind the conversation turned to the composition of the holding company, or commission, as the possible holding company members are being popularly termed, and all sorts of names were suggested in city hall circles yesterday as probable selections for this commission. Mayor Johnson himself is known to have discussed members. The size of the possible commission is also a mooted question. Under the law it would not exceed five. Some advocated seven members, while others favored a commission composed of as many as twelve members.

It is agreed in popular discussion that the members of the commission, if there is to be one, should be paid excellent salaries and that they ought to devote all of their time and energy to the management of the system. Salaries of no less than \$10,000 a year each were advocated.

President M. A. Fanning of the Forest City Railway Co. yesterday declared that if there were no legal difficulties his company could have 3-cent cars in operation within four months. Then he too left the city. Fanning said that several lines could be placed in operation within that time if injunctions against his company were lifted.

WILL DRAW ORDINANCES.

City Solicitor Baker Consents to
Prepare Cross Town Franchise Measures.

Councilmen Hitchens and Felton, promoters of cross town street railway lines on the east and west sides of the river, yesterday afternoon held a conference with City Solicitor Baker relative to the preparation of ordinances providing franchise for such lines.

Baker was asked to draw both. He agreed to do so. Baker will begin work at once, but it is hardly probable that the measures will be ready for presentation to the council tomorrow evening. They may be ready a week later.

Felton's ordinance will be one providing for a cross town line on Woodland Hills avenue and Doan street. It will be an extension of the Broadway line, running from Broadway to Doan and Superior streets. The Woodland avenue extension will probably be missing from the new measure.

Hitchens made no special requests relative to a Gordon avenue line, and a route will probably be selected at a meeting to be held this week.

By agreement the ordinances will leave the question of a rate of fare open. This question will be fought out in the council.

HEARING CONCLUDED.

Decision in Franchise Case Not Expected in Common Pleas Court for Several Weeks.

City Solicitor Baker concluded the arguments on the "Reynolds injunction suit" in Judge Lawrence's court yesterday morning. Judge Lawrence has taken the matter under advisement and a decision is not expected for several weeks. An appeal will be taken to the circuit court immediately on the announcement of the decision.

Reynolds is suing as a taxpayer to have the city perpetually enjoined from transferring the Central avenue car line to the Forest City Railway Co. Mr. Baker used the customary argument that the franchise of the Central avenue line has expired and that the city council had a perfect right to assign the property to the company offering the best terms.

CANNOT ISSUE LIBRARY BONDS

Solicitor Baker Says Authorization Must Come From the City Council.

Longworth Law Effectually Prevents Council Taking Action.

City Solicitor Baker yesterday rendered opinions to Librarian Brett of the public library in response to questions submitted by Mr. Brett at the request of a committee representing the library board and the board of education. The questions were submitted to Mr. Baker several days ago and dealt with the legal power of the city or any of its legislative bodies to issue bonds for a new library building.

Mr. Baker practically says that the city council is the only body with power to legally authorize such an issue and he advises against such issuance, his opinion being a hard blow to the plan to secure a new library building for Cleveland. Mr. Baker's opinion in full is as follows:

I have your letter of the 26th, in which you tell me that you are directed by the committee representing the board of education and the public library board to ask my opinion upon three questions. I will answer your questions in the order named.

Does section 3398-1 of the revised statutes of Ohio empower the board of education to issue bonds for the purpose of erecting a public library building? My answer to this question is, No. The language of section 3398-1 is specific in the authority which it confers upon the board of education, and that authority is to levy not in excess of 1 mill for a library fund, to be expended by such board of education for the establishment, support and maintenance of such library.

It will be observed that section 3398-1 and the following of the revised statutes provides a means for the establishment of board of education libraries and their maintenance, providing in detail the maximum levy and the machinery for its administration; the maximum levy provided is 1 mill. In Cleveland, however, the situation is that sections 4000 and the following expressly provide a board of education library system for the city of Cleveland which differs from that provided by general law for other cities of the state—this act remains unrevoked, and, its constitutionality having been affirmed by the supreme court, I am of opinion that it would not be competent for the present library board, organized under section 4000 and the following, to abandon their functions in order to permit the board of education of the city to organize a board under the provisions of section 3398-1 and the following. The presence of both of these sets of provisions in the statutes must be taken as a declaration of the legislative intention that the Cleveland public library shall be administered in a different way from that of the other cities of the state, and until the legislature repeals section 4000 and the following or some new adjudication is had upon their validity I see no method by which the Cleveland board, even by the voluntary surrender of its functions, could bring the Cleveland public library under the provisions of section 3398-1.

The provision in the Cleveland library act for the issuance of bonds I have already discussed at your request—it is found in sections 4002-11 and limits the total issue possible to \$250,000, all of which bonds have been issued and the power exhausted.

Section 3398-1 and the following make no provision for the issuance of bonds, the only provision for bonds in the entire board of education being found in section 3394, where bonds are authorized to be issued under certain circumstances and with certain restrictions for the purpose of obtaining or improving public school property; so that no bonds could be issued by the board of education, either as the situation now is or if the public library of Cleveland were brought under the provisions of the general board of education library act for the purpose of erecting a public library building in Cleveland without additional legislative authorization.

By the provisions of the so-called Longworth law municipal corporations in the state are empowered to issue bonds annually in a sum not in excess of 1 per cent. of the total aggregate of the grand duplicate of taxable property in the corporation—until the total amount of bonds issued equals 4 per cent. of the grand duplicate, bonds in excess of this amount can only be issued as the result of a popular vote authorizing their issuance. At the time the Longworth law was passed Cleveland had issued and outstanding something in the neighborhood of \$10,000,000 or \$12,000,000 of bonded indebtedness exclusive of the water debt. By the passage of the Longworth law and the repeal of all other statutes authorizing the issuance of municipal bonds such previously issued bonds were carried into a suspense account and have been held by the courts not to affect the limitation upon municipal indebtedness.

Among the provisions of the Longworth law is section 15, which authorizes municipal corporations to issue bonds upon a proper vote of its council for establishing free public libraries and reading rooms. It is altogether likely that the city of Cleveland would have the power to issue bonds under this provision of law for the purpose of erecting a public library building to be maintained by the public library board, but whatever the power, the financial situation of the city of Cleveland is such now that the possibility of its issuing such bonds is, in my opinion, exceedingly remote; the intercepting sewer project, together with other costly undertakings, demand annually the issuance of bonds to the extreme limit of the Longworth limitation. The acquisition of land in Wood street and the plan for erecting a city hall make other demands upon the city's powers and I am satisfied that whatever the power, there is little possibility that the city of Cleveland would be in a position to devote any portions of the moneys to be derived by it from the sale of bonds, to the building of a library, for some years.

The foregoing is in answer to the three questions contained in your letter. I doubt the propriety of my expressing the views I have expressed, as the function of the city solicitor is to answer questions of law and not questions of financial policy, which would more appropriately be addressed to either the mayor or the council of the city. For this reason I request the board of education and the library board to regard this merely as an expression of my personal opinion and not an attempt to encroach upon the administrative functions of the mayor or the legislative powers of the council of the city of Cleveland.

FIGHTING FOR MORE MONEY

Owners of Group Plan Land Dissatisfied With Court Decision.

Price Was Fixed, but L. P. & J. A. Smith Refuse to Accept.

The fight begun by the city authorities more than two years ago to secure by appropriation proceedings the site for the

new city hall, has not ended, despite the close of the appropriation trial and the tender of the money in payment for the property. An appeal has been taken by L. P. and J. A. Smith and their sister, Mrs. Cunnea, from the result of the trial in the court of insolvency. A motion of appeal has been filed in the common pleas court and the matter will now be fought out there.

The city began its appropriation proceedings for the property along Wood, Summit and Bond streets for use of the new city hall March 3, 1903. The case dragged along through the insolvency court for two years. The value of the property was ultimately fixed by a jury at slightly in excess of \$125,000. Of this amount nearly \$67,000 was to be paid the Smiths for their property at the corner of Summit and Bond streets, the site of the old Lakeview apartment house. The sum of \$23,566 was to be paid for the building and the remainder of \$66,932 was to have gone to the purchase of the land.

Involved in the suit were nearly twenty-five defendants who owned small parcels of land in the district condemned for the city hall site. The various sums decreed to be paid were satisfactory and were turned over to them April 17, last, by the city through Judge Bushnell of the insolvency court. The sum fixed for the Smiths was also tendered, according to the court records, and was refused.

The money tendered the Smiths, the records say, was not satisfactory to the parties and they have appealed the case to the common pleas court to have a higher value placed on the property.

The city, through City Solicitor Baker, is prepared to fight the matter and the solicitor has filed a motion to dismiss the appeal. The motion is based on several grounds, the primary contention being that the appeal was taken at the wrong time in the proceedings. The motion was to have been heard by Judge Neff yesterday but it has gone over until May 4 when all the parties expect to appear and have the matter heard orally. City Solicitor Baker is appearing for the city and Goulder, Holding & Masten represent the appellants.

CANNOT STOP BUILDING.

Solicitor Baker Says City Hall Commission is Powerless.

Building Inspector Vorce yesterday refused to issue a permit to James Durning for the alteration of the front of his building at Wood and Hamilton streets until it had been referred to the city hall commission. This body is endeavoring to stop all building in the vicinity of the new city hall site, so that property will not be enhanced in value.

City Solicitor Baker late in the evening decided that the building inspector nor the city hall commission had power to prevent the alteration of the building front and Durning proceeded without further ado.

FORMALLY THIS TIME.

Unfortunate Cross Town Line Ordinance is Killed Again.

The old Wood and Hills avenue-Doan street cross town line street railway ordinance was formally killed by the city council last night. The measure had been informally killed a week ago.

The street railway committee last night reported concurring in the opinion given by Mr. Baker last week, but suggesting that a new ordinance be presented. After receiving the report the council laid the ordinance on the table.

CAN SEE NO WAY OUT.

Members of Board of Education Not Encouraged Over Library Building Prospects.

Unless a way is found around the objectionable points cited in City Solicitor's opinions, the Library board and board of education may have to wait several years before a combination library and school headquarters building can be erected in the group plan. Such was the opinion of the members of the two boards yesterday after having read the solicitor's opinions.

The two boards had been hopeful that under a general section the board of education might issue bonds for such a building, but Mr. Baker says that Cleveland is specially provided for by another section which has not been repealed and under which the library board has issued its full allowance of bonds. The only way out the solicitor sees is an issue of bonds by the city council, but Mr. Baker says the limit allowed by the Longworth act has long since been reached and judging from the present financial condition of the city this limit will be attained without additional expenditures for some years to come.

Dr. A. C. Ludlow of the board of education thought last night that possibly some action might be taken by the state legislature, possibly amending the Longworth act or some other act that will result in some body or board in this city being able to issue the required amount of bonds for a building in the group plan. Member Frank H. Hoserot of the board of education said that he saw no way out of the difficulty save to wait for several years until an opening appeared in some budget of expenses to squeeze a bond issue.

"I am heartily in favor of the plan to place the building in the group plan," he said, "and I want to see it started just as soon as possible. Possibly Mr. Baker may send us a full report with his opinions that may point a way."

It has not yet been decided when the two boards will meet again in joint session. The question, however, will probably be discussed at the regular meeting of the board of education tonight.

BRETT HAS HIS EYES ON OLD SINKING FUND

Joint Meeting of Library and Education Boards Will Soon Be Held.

President Orth, of the joint committee of the Board of Education and Library Board, will call a meeting soon to determine what course to pursue relative to the recent decision by City Solicitor Baker, which may make it necessary for the boards to wait a long time before steps can be taken to construct a main library in the group of public buildings. The school board may talk about it at its meeting Monday.

"The first thing to do," said Librarian Brett Monday, "is to secure

a site. According to the city solicitor's opinion it is out of the question to issue bonds, so something else must be done. It may be possible that something can be done with the money in charge of the old Sinking Fund Commission. This amounts to more than \$2,000,000 and is supposed to be used for the benefit of the first seven wards of the city. Why cannot the city get this fund for the group plan and allow part of it to be used for library purposes?"

Andrew Carnegie only builds libraries. He never provides sites, so if the great library builder proposes to do anything for Cleveland the city will have to provide the site first and the cost of the present city hall site will be considerable.

GUNN GOES TO LAW TO GET OFFICE.

W. E. Gunn began quo warranto proceedings in the supreme court at Columbus, Thursday, to oust Peter Witt, the present city clerk. The court has been asked to decide whether the law abolishing spring elections operates to extend the terms of clerks of city councils until Jan. 1, 1906, which otherwise would expire the first week in May, this year.

Gunn alleges that he was elected clerk Jan. 3, 1905; that Witt refuses to surrender the office; that Solicitor Baker and Mayor Tom refused to approve his bond; and Auditor Madigan refused to receive and file it.

RIVER MADE DUMPING PLACE.

City Will Get Evidence and Ask Government to Act.

President Springborn of the board of public service conferred with City Solicitor Baker yesterday relative to the enforcement of laws preventing the dumping of refuse in the river. This practice of big corporations and small business firms, whose places of business about on the river, has been the source of considerable trouble recently.

Baker says that there is a stringent federal law bearing on the subject and that it would be best that the federal courts take up the matter. The city will gather evidence and then ask the United States authorities to act.

PERMITS FOR TREE PLANTING.

City Forester Thinks Work Should be Under Supervision.

City Forester Horvath is desirous of the passage of an ordinance by the council governing the planting of trees in the city. He will ask City Solicitor Baker to prepare the measure.

Horvath would make it necessary to secure a permit before a tree could be planted. When application for a permit was filed he would cause the soil to be examined and would then permit of the planting of only that variety of tree that would thrive best in the soil of the locality. The ordinance would contain many other precautions if Horvath's ideas were followed.

COMMITTEE TO MEET MONDAY

Will Reopen Street Railway Question by Considering "Eight for" Measure.

Favorable Report to Council on Hitchens Ordinance Expected.

The street railway committee of the city council will meet at 6:45 o'clock Monday evening for the purpose of further consideration of the Hitchens low fare street railway ordinance.

Chairman Pears of the committee called the meeting yesterday before leaving on a fishing trip. He will not return until about 6 o'clock Monday.

City Solicitor Baker has assured the committee that he will have ready for presentation at this meeting the amendments suggested at the last meeting. The amendments will contain specific clauses relative to the payment of bridge rentals, paving assessments, the sprinkling of tracks, car licenses, etc. Hitchens is of the opinion that such matters are already covered in his ordinance, but the committee demanded that specific and detailed clauses be included in the ordinance bearing on all these points.

With the amendments inserted the committee has indicated its intention to report the measure back to the council with a favorable report. This report will probably be made to the council at its next meeting.

The meeting of the committee will be the first move in street railway matters for nearly two weeks. It is almost that length of time since the public meeting in the council chamber. At that meeting President Andrews of the Cleveland Electric Railway Co. asked Mayor Johnson to indicate the outside price he would be willing to fix for street railway stock under a leasing proposition. Andrews had fixed the probable leasing price from the stockholders' standpoint at par.

The mayor agreed to try to have an answer by last Monday. Andrews' absence from the city, with the departure of the mayor by reason of his mother's illness later on, has delayed matters and there have been no developments lately. It is therefore more than probable that the next step in street railway matters will be the committee meeting with its report to the council.

A public meeting for the discussion of the leasing suggestion and any other plan that may be offered will probably follow early next week.

SAY SPRAY DAMAGES.

Solicitor Baker will be asked to prepare an ordinance to prevent the escape of water and spray from exhaust pipes in the big down-town office buildings. Complaints are made that the clothing of pedestrians is injured by the falling spray. The ordinance will probably be introduced at the next meeting of the council.

PAWED THROUGH CODE.

Sanitary Regulations Are Referred to Committee—Will Investigate Street Cars.

City Solicitor Baker and Health Officer Friedrich with Members Ward and McAfee of the board of health critically examined the new sanitary code at a meeting in Baker's office yesterday afternoon. The code was considered section by section.

Mr. Baker raised the question of legality on many sections and the entire code, together with such changes and corrections as were suggested, were referred to a committee consisting of the city solicitor and health officer for the proper drafting of such amendments and the changing of any sections thought to be illegal.

The board also unanimously decided to add a section to the code governing the heating, ventilating and overcrowding of street cars. President Ward many months ago drafted a section relating to the overcrowding of cars and it is not improbable that his ideas will be embodied in the measure.

The question of open markets was not considered. At present the code provides that no edibles of any kind must be exposed for sale unless under cover. The market gardeners, butchers and a number of other classes have made vigorous objections to the sections. The board will not pass finally upon this matter until an opportunity is given the Grocers' association and all other interested bodies to express their opinion on the subject.

The board itself seems inclined to enforce a closed market. The members believe that it is detrimental to public health to expose meats, vegetables, candies, etc., to the dirt and dust of the streets.

ONE KILLED AND TWO INTRODUCED.

Council Kept Busy With Resolutions on Completion of Building Code.

Original Plan for Commissioner, Counsel and Clerk Tabled.

Councilman Walker's resolution providing for the dissolution of the building code commission and the appointment of a commissioner, special counsel and clerical assistance and providing further for the payment of \$1,500 to John Eisenmann, framer of the code, for back salary, was practically killed by the city council last night when the resolution was laid on the table.

Previous to the meeting the special building code committee of the council recommended the adoption of certain amendments, but even these failed to save the resolution. The amendments eliminated the authorization for the employment of special counsel, limited the length of time for completion of the code to six months and required monthly reports to the council.

After the resolution had been tabled Councilman Halle, who said he was not committed to the resolutions, presented

two, one for the appointment of a commissioner for six months, but withholding special legal assistance, and another providing a \$1,500 payment for John Eisenmann.

Hitchens, when the original resolution was presented last night, asserted that his remarks of the previous session had been somewhat misconstrued. He said he did not want to criticize any individuals, that his chief criticism of the resolution was the fact that it provided for the employment of special counsel. He thought the city law department should take care of all legal business of the city.

Solicitor Baker insisted that the building code had constantly been supervised by his office and that he accepted full responsibility for it. Two or three clauses, he said, were of doubtful legality, but this was due to the fact that the questions involved had never been settled by the courts.

There was a long debate participated in by many members of the council and finally Mayor Johnson said that after a consultation with Building Inspector Vorce he was satisfied that the building department could complete the code with the employment of some outside help. The mayor offered a letter from Vorce in evidence.

"If, however," continued the mayor, "the council feel that Eisenmann ought to complete the code I shall urge upon him that he do it in three months. It is only a matter of economy to me."

On the question of adopting the amendments recommended by the special committee the vote was a tie, President Lapp voting against adoption. This aroused the discussion anew and parliamentary tactics were forgotten while members talked, no one knowing just what to do.

Finally Felton proposed that the Walker resolution be laid on the table with the understanding that new ones be presented, separating the questions of allowing back pay and appointing a commissioner. The resolution was then tabled and Halle presented the two resolutions with the understanding that he was not committed to either.

8 PORTABLE BUILDINGS.

The Board of Education is Preparing to Avoid Congestion Next Fall.

The board of education at its meeting last evening took action to provide eight one-room portable buildings looking forward to the relief of overcrowded buildings when school opens next fall.

"We want to be fully prepared in case of an emergency next fall," said Director Orr last evening in discussing the action of the board. The portable buildings will each accommodate forty or fifty pupils and can be placed on any school lot to relieve the congestion in any one building.

Bond buyers from a number of outside cities were in the city yesterday to attend the proposed sale of \$300,000 worth of bonds for improving the condition of school buildings. The bids were to have been opened last evening but School Director Orr stated that he had received a communication from Solicitor Baker in which he stated that an advertisement was necessary. Action was then taken to advertise the bond sale and the bids will not be opened until June 7.

A communication from Supt. Moulton was submitted to the school board in which he asked that for this summer the playgrounds at Orchard and Fowler schools be discontinued and that instead three grammar and one manual training school be established. A summer high school as carried on last summer was rec-

ommended by Supt. Moulton. He said that a central location for the pupils would be to have them located at Hicks for the West Side pupils, Willson for the East Side pupils and Fowler for the South Side pupils.

Supt. Moulton said he understood the board of public service is willing to establish eight playgrounds in different parts of the city with proper supervision and efficient teachers. He said for this reason he made no recommendation for the establishment of playgrounds by the board of education. He also recommended that the primary schools be continued during the summer.

Contracts were let last night for the work on the proposed Oakland school building subject to the right of the board to change the location of the building from the present site.

SENDS LOW FARE MEASURE BACK

Council Re-Refers Hitchens Ordinance to Further Consider Amendments.

Laying of Connecting Line at Warrensville Farm Authorized.

Councilman Hitchens' low fare-twenty year extension franchise ordinance was placed on second reading by the city council last night without amendment. The measure was then referred to the city solicitor and street railway committee with the amendments presented by City Solicitor Baker at the request of the street railway committee.

Mr. Baker prepared and submitted to the committee earlier in the evening one amendment which covered the objections raised by the members of that body. The amendment replaced Section 9 and, among other things, specifically provided a bridge rental, for the paving of devil strips and one foot outside of each track, the sprinkling of tracks, etc. The bridge rental was not fixed, however, and for this reason Councilman Hitchens suggested that the amendments be not adopted until the rate was fixed. His suggestion was accepted.

Aside from a very brief discussion relative to the manner of disposing of the ordinance, there was no discussion of street railway matters by the council, excepting that when the ordinance to lay a track on the Warrensville farm to connect with the suburban line operating in Kinsman road, Hitchens raised the question of the legality of laying a railway track out of funds provided by bond sales for a tuberculosis hospital.

Solicitor Baker held that the Longworth law and the ordinance providing for the bond sale provided for the building and equipping of the hospital, and he said the railway track was part of the hospital equipment, since its construction is partly for the transportation of patients to that institution.

The council then passed the ordinance for the construction of the line, which is to cost about \$12,000.

Waiting for Report of Mayor's Millions in Stocks and Bonds

Tom L. Johnson Makes No Return of Vast Amount of Taxable Property and Board of Review Is Won- dering if He Will Make Corrections

Newton D. Baker, Mayor Johnson's city solicitor, has made his personal tax return for 1905. Among the items returned by him for taxation is a piano, the value of which, for taxation purposes, he has placed at \$400.

Mayor Johnson made his personal tax returns several days ago, and among the items returned were two pianos, which he valued for taxation purposes at \$50 and \$150 respectively.

When the tax assessor returned Mr. Baker's personal property for taxation the total valuation returned was \$1,325. A few days after the assessor had made the return, Mr. Baker called at the board of review rooms in the court house.

"I forgot to make a return for my

dog," he explained; "and I want to add it to my tax return."

The dog was added, the valuation of which was fixed at \$5.

Mayor Johnson did not wait for the assessor to value his property. He made his tax return by mail. County Auditor Wright referred the return to the board of review for investigation. The board is now waiting for Mayor Johnson to come in and make additions which he may have forgotten in the shape of stocks and bonds of foreign corporations, taxable under the laws of Ohio.

Reading in the papers several days ago a report from Allentown, Pa., that a reorganization of the Lehigh Valley Traction Company was in progress and that Mayor Johnson is, and has for several years been, interested in that property to the extent of some millions of dollars, the members of the board concluded that the mayor had perhaps forgotten to make any return of stocks and bonds of that property, which, if owned by him, are taxable in Ohio. Up to the present time, however, the mayor has made no corrections nor additions.

strous fraud," said Solicitor Baker. "The oppression and cruelty of the vampire bailiffs who prey on the ignorance and helplessness of men, women and children cannot be denounced too severely. The fraudulent issue of attachment papers is an outrage. The whole system should be wiped out and proper municipal courts, presided over by lawyers of education, character and ability, who command respect, should supplant them. It may be necessary to amend the constitution to bring the reform about. If so, then amend the constitution."

"We must admit," said Mr. Butler, "that there is a crying need of reform in this matter. For myself, I know of nothing in the world in which more scoundrelism is wrapped up than in these courts that are one-half municipal and the other half county. I venture to say that 95 per cent of attachments are based on nothing less than legalized blackmail."

The association has elected these officers: President, U. G. Denman, Toledo; vice president, S. L. Tatum, Springfield; secretary, F. L. Phelps, Warren; treasurer, C. F. Beery, Akron.

CITY AGAIN WON LOW FARE CASE

Judge Tayler Denied Stay to
Await the Outcome in
the State Courts.

Two Lines of Litigation Will
Proceed at the Same
Time.

In the United States circuit court yesterday Judge Tayler again held against the Cleveland Electric Railroad Co. in its fight for an injunction directed against the city and the Forest City Railway Co. to prevent the operation of an ordinance passed by the council transferring the franchise over Central avenue to the latter company.

The question arose through a motion filed by Judge Sanders of Squire, Sanders & Dempsey to delay the recording of the decree refusing the injunction as prayed for by the Cleveland Electric. The argument used by Judge Sanders when presenting his motion to the court was based on the litigation in the state courts commenced by W. M. Reynolds as a taxpayer against the city and the rival company. The Cleveland Electric wanted the federal court to stay its hand until the state courts have finally adjudicated the question of whether or not the city ordinance granting a franchise to the Forest City Co. over Central avenue is valid.

"If the court finds against me on this motion, I shall dismiss this bill and file another at a time more advantageous to both parties," he stated.

City Solicitor Baker was of the opinion that the litigation in both courts should move along at the same time. "It will take probably a year and a half to settle the questions involved in the Reynolds suit," he said. "This will be carried to the state supreme court, and then another year and a half would elapse before the litigation in the federal courts could be decided by the highest court. All this would exhaust valuable time. Why not let the two suits progress as rapidly as the courts will permit, and parallel?" Similar argument was used by Attorney Westenhalter for the Forest City Co.

Judge Tayler refused to grant the motion. "The court is of the opinion that a decree should be entered in accordance with the opinion rendered some time ago," he said. "The case will be held open until the October term of court, however, and the complainant will have an opportunity to file an amended bill. The amended bill should be filed by September 1."

Columbus, May 16.—(Spl.)—The city solicitors of the state are in annual convention here. The chief interest of the meeting centers in plans to put the organization of solicitors on a permanent basis, with a view of controlling all municipal legislation on the part of the Ohio general assembly.

Newton D. Baker is to lead in the discussion of laws governing the safety boards.

SYSTEM IS ATTACKED BY MANY

City Solicitor Baker at
Columbus, O., Denounces
"Monstrous Fraud"

WOULD WIPE IT OUT

Advocates Amendment of
Constitution to Do Away
With Abuse

According to a special dispatch to The World from Columbus, Solicitors Baker, of Cleveland, and Butler, of Columbus, made violent attacks on the justice court system of the State in the City Solicitors' association convention in session there, and their remarks were approved by those attending.

"The whole system is not only archaic, but a mon-



TROLLEY GUARDS WANTED.

Ordinance to Insure More Safety at Grade Crossings May Pass Council.

Councilman Maulberger will introduce an ordinance tomorrow evening requiring the placing of trolley guards upon trolley wires at the intersection of all steam and trolley roads in the city. Such a guard now protects the Euclid avenue crossing of the Pennsylvania road.

There has been much complaint in the past few weeks of trolley wheels "jumping" the wire at crossings, and on several occasions accidents due to the absence of guards have been narrowly averted. Councilman Maulberger investigated the matter and finds that the guard over the Euclid avenue crossing

works satisfactorily. He requested City Solicitor Baker to prepare an ordinance relative to the subject.

Baker completed a draft of the measure yesterday and handed it to Maulberger, who will urge its speedy adoption by the council.

The measure provides that all crossings must be equipped with these guards to the satisfaction of the board of public service within sixty days after the passage of the same. Its purpose is declared to be a safeguard against the danger of trolley wheels slipping the wires, and violation is fixed as a misdemeanor.

The president or general manager of the street railway company, under the provisions of the measure, may be arrested and fined not less than \$5 nor more \$25 for each wire that is left unguarded. Many councilmen have spoken favorably relative to the measure, and the probabilities are that it will pass with little or no opposition.

NOBLE KEY TO GROUP PLAN.

In the Absence of the Mayor Solicitor Baker Welcomes the Distinguished Guests.

Mayor Tom L. Johnson was to have spoken at the exercises attendant upon the laying of the cornerstone, but owing to the critical illness of his mother he was forced to be at her bedside in Brooklyn, N. Y. City Solicitor Newton D. Baker spoke in his stead for the city of Cleveland, saying in part:

In the absence of the mayor it is my duty to represent the people of Cleveland on this occasion. In their behalf I express a grateful appreciation of the generosity of the government in providing so amply for the accommodation of our people in their business relations with it and even a more hearty appreciation of the sympathy which the general government has had for our larger plans, as manifested by the artistic excellence of the building here to be erected.

To the people of Cleveland this building stands for a triumphant government, of which they are a proud and happy part; it stands here where our own public buildings are to stand as the federal government stands at the head of our state and municipal governments. It will form a noble key to the group plan, as the federal government forms a noble key to the institutions through which we, as a free people, are struggling to work out liberty and equality on earth and to solve happily the problems of human destiny.

On behalf of the city of Cleveland I welcome the distinguished guests who are here to participate in these significant ceremonies and express their pride and pleasure in the things so auspiciously begun this day.



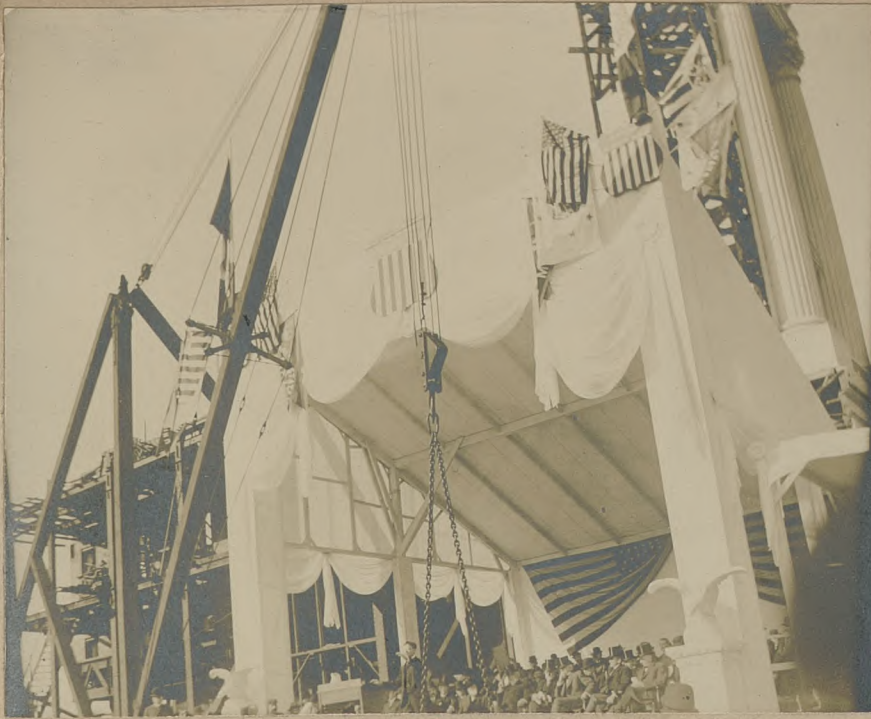
CITY SOLICITOR NEWTON D. BAKER.

Doubt as to City's Right to Issue \$170,000 Bonds for High Pressure Fire Service.

The city council last night referred the recommendation of the council committee on fire that the city spend \$170,000 for the purpose of constructing a high pressure fire service east of Erie street to the city solicitor and board of public service. Mr. Baker asked that reference be made to him.

"I think that it ought to be referred to me," said Mr. Baker. "There is doubt as to the right of the city to issue bonds for the purpose named."

Baker has given no formal opinion on the subject yet, but he believes the city cannot issue bonds for the purpose.



NEED NOT STOP AT CITY LIMITS

Property Outside May be Appropriated for Many Municipal Purposes.

Decision Important in Relation to Boulevard Extensions.

City Solicitor Baker in an opinion to Park Engineer Stinchcomb yesterday decided that Cleveland, under the municipal code, has authority to appropriate property, not only for park and boulevard purposes, but also for a score or more other purposes, outside of the city limits. During the recent agitation of the question of reviving park boards one of the chief reasons given for the necessity for establishing such boards was the asserted fact that at present cities have not the right to secure property outside of the city limits for park or boulevard purposes.

The fact that some of the property needed for the proposed Ambler-Woodland Hills avenue boulevard is outside of the city and the possibility that the Edgewater-Brookside boulevard might extend beyond the city limits led Engineer Stinchcomb yesterday to ask City Solicitor Baker for an opinion, the assertion that other cities now have no authority for gaining possession of such property when outside the city limits having aroused his curiosity. If the city had not the power it might also interfere with plans for this summer, he said.

Baker in reply said that section 10 of the new code gave the city power to appropriate land for almost fifty purposes, within the corporate limits. Among

these is the right to appropriate property for parks, park entrances, boulevards, market places and children's playgrounds, which are connected together in one clause of the section.

Baker then cites section 2 and quoting the language of that section says:

"In the appropriation of property for any of the purposes named in the preceding section, the corporation may, whenever the same is reasonably necessary, acquire property outside the city limits of the corporation; but no land shall be appropriated or obtained for public cemeteries within 200 yards of any dwelling house without the consent, in writing, of the owner of the tract of land on which such dwelling house may be situated."

DON'T WANT TO LOSE OLD NAMES

South Siders Protest Against Street Renaming and Renumbering Ordinance.

Pearl - Twenty - Fifth Street and Jennings - Fourteenth Street, Would Suit Them.

Objections of property owners on Jennings avenue, Pearl, Sowinski and Pulaski streets to the changing of the names of those thoroughfares as provided in the new renaming and renumbering ordinance were heard by the council committee on streets yesterday afternoon. There was a good sized delegation from the South Side. Polish residents of the city were on hand in the interest of streets named after their countrymen.

State Representative F. W. Treadway was spokesman of the Jennings avenue-Pearl street delegation and in opening he said the situation in the section of the city he represented was entirely different than that of any other.

"The ordinance was drafted in an effort to make all parts of the city easy, definite and certain of access," he said. "There is no means of greater certainty or clearness in gaining access to the part of the city under discussion than by the use of Pearl street and Jennings avenue under the names they bear. This definiteness is arrived at by the fact that any one going there must use one of the thoroughfares."

Sentimental reasons were not considered, he asserted, but the question was a matter of business and practicability. Jennings avenue he declared to be the principal residence street of the South Side, while Pearl street was declared to be the only business thoroughfare losing its name through the operation of the new system. He said the change in name was in his mind largely a question of appropriation of property and he did not know but that the movement could be enjoined on the ground of the appropriation of a vested right. He said the present street names had some value to property owners living on them.

H. L. Jennings said the new system was a farce when applied to Jennings avenue and Pearl street and asserted that the real purpose of the system was defeated rather than attained when it was applied to those two streets. He said, however, that he did not come before the committee to enjoin the operation of the system, but simply to save out of the wreck Pearl street and Jennings avenue.

"Sentiment has been thrown aside. All we ask is justice and our business interests," he said. "We present the question on a different basis than any other complaint can be placed. There is no other place in the city where similar conditions exist."

H. W. S. Wood, G. W. Andrus and other prominent South Siders spoke.

City Solicitor Baker said he had reported adversely to ordinances to retain Pearl street and Jennings avenue as names because the new ordinance was not effective. He said nothing could be done until after December.

City Engineer Carter then suggested that Jennings-Fourteenth street and Pearl-Twenty-fifth street be substituted, and this was agreed to by the protestants.

Carter also said he would present the petitions of the Polish citizens relative to Sowinski and Pulaski streets to the council in December.

REGULATE PRICE OF ELECTRICITY

New Ordinance for This Purpose May Soon be Introduced.

Competition Barred Except by Consent of Popular Vote.

Further efforts to regulate prices of electricity or to admit a competing company into the field here are to be made in the near future. An ordinance to regulate the rates that may be charged for electricity is now in course of preparation. If introduced into the council Henry Maulberger, Democratic floor leader, will probably father it.

Such a measure is being considered as only one of two plans that will be sprung within the very near future in another rousing fight that is to develop at the city hall. The other plan is to pass legislation through the council submitting to the vote of the people at the next election the question of granting a franchise to a new electric lighting company.

Plans for moves of this kind have been brewing for several months. Details have not been completed yet and it is not impossible that both propositions will be submitted to the council. There will undoubtedly be developments within the very near future and Mayor Johnson and the administration will probably be found on the side of any legislation of this sort that appears. The position of the Republicans, or rather some of them, in view of the sensational developments growing out of the South Brooklyn annexation question, is somewhat problematical. Many Republican members may be found on the side of the Democrats in the new fight.

That new electric lighting deals of various sorts have been on foot has been known for a long time. Two companies, organized for the purpose of furnishing heat, light and power to the residents of Cleveland are now holding state incorporation papers for operation here. Both companies were organized with much secrecy.

One is the Cuyahoga Light & Power Co. and an ordinance is now pending in the council to grant it a franchise. It has never been passed for the reason that such a franchise cannot be granted unless the people, by referendum vote, decide that the city may grant it a franchise. Councilman Kraus introduced the measure and if it is decided to submit the question to a vote of the people he will probably take the initiatory steps in the council.

Maulberger, on the other hand, is an outspoken advocate of attempting to compel a reduction of rates by the present company.

"If small private concerns can sell electricity for 4 cents per unit I don't see why the big company should not be able to do the same. An effort to lower rates ought to be made."

City Solicitor Baker has decided that the council has the power to fix rates. He says the code gives the right to regulate the rates once every ten years. Cleveland has never taken advantage of the law on the subject.

MORE WORK FOR CITY SOLICITOR

Council Committee Strikes Legal Snags in Street Railway Ordinances.

Public Didn't Come to Meeting and Company Wasn't Represented.

Street railway matters were again considered by the councilmanic street railway committee yesterday afternoon, but without any definite result. The committee will meet again Monday afternoon at 2:30 o'clock for further consideration of the four ordinances now pending in the council. Direct invitation is to be presented to the Cleveland Electric Railway Co. to have a representative on hand.

Meantime knotty legal questions have been submitted to City Solicitor Baker for his consideration and advice.

Although Chairman Pears had announced the meeting as one to which the public was welcome, the public didn't come. The street railway company was also conspicuous by absence of representation.

The Hitchens blanket ordinance was the first taken under consideration. Haserodt's amendments, one empowering the city to fix rates of fare at any time and another compelling arbitration in case of disputes caused dissension at once.

"We are trying to take the question out of politics," said Wright. "If we pass an ordinance without definitely fixing the rate of fare for a fixed period of time we will simply be throwing the question into politics worse than ever."

Haserodt agreed after some argument and said that probably this power should be given only once or twice during the life of the franchise. The amendment will probably be amended.

Pears then questioned the legality of the compulsory arbitration amendment. City Solicitor Baker said he doubted its validity, although the question had never been fully and finally settled by the courts.

Felton's Woodland Hills avenue cross town line measure was considered.

"More legal questions," said Pears, as he picked up the document. "What will happen if we grant them a franchise over the Luna park extension, now part of the Quincy street grant, which has expired."

"That is a doubtful question," admitted Felton. "It is the only point upon which the ordinance may strike a snag."

By agreement then the committee decided to refer all the ordinances to City Solicitor Baker for decision of the many legal questions. Before adjourning, however, the committee indicated its approval of the Maulberger ordinance requiring trolley wire guards at all railroad crossings to prevent trolleys from slipping from the wires in going over the crossings. The ordinance will be formally approved Monday.

It is also probable that the three franchise measures will be approved by the committee, but the effort to pass them through the council will be stormy.

PARTNER'S CARD; ZINNER'S NAME

Special Constable Explains How "Attorney-at-Law" Happened to be There.

Plans for Campaign Against Justice Court Extortion Afoot.

The disclosures of the excessive fees of constables and other attaches of justice courts as revealed in the trial of David Zinner, the special constable charged with embezzlement, in police court Thursday has aroused much indignation among judges, police prosecutors and other public officials.

The police prosecutors are already planning a sweeping crusade against any constables whose charges are found to be excessive.

Prosecutor Levine said yesterday that he had all the evidence needed to show up rottenness in the justice courts and would sift the matter to the bottom as soon as someone made an affidavit. City Solicitor Newton D. Baker spent some time in consultation with Prosecutor Levine yesterday morning and before he left the prosecutor's office said that he was heartily in accord with the movement.

Justice William Brown, a justice of many years experience, said yesterday that more than \$100 in illegal fees is charged up one way or another in the justice courts in Cleveland every day.

As the conclusion of yesterday's trial Acting Judge Selzer lectured Zinner severely. It was brought out in the trial that Zinner circulated cards with "David Zinner, attorney at law" and "Law Office" printed on them. When asked to explain why he had such cards when not an attorney he said that they were his partner's cards with his name on them. His explanation was greeted with an outburst of laughter and even the court smiled broadly.

The court ordered Zinner to refrain from circulating the cards.

WANTS A FIRE ENGINE.

Delegation of Newburg District Citizens Appeal to City for Better Protection.

Councilman Orgill headed a delegation of Newburg citizens that visited the members of the board of public safety, City Solicitor Baker and fire department officials yesterday morning in an effort to secure better fire protection for the Newburg district. The delegation wants an engine company established in the home company building on Woodland Hills avenue, near Union street.

They assert that with the low water pressure in the high service district the pressure is so light that a hose company is of little or no use in case of a serious fire.

The fire officials agree with the complaint of the Newburg residents, but say that in view of other pressing needs it appears almost impossible to remedy conditions out there at present.

AFRAID TO TACKLE THE ORDINANCE

Council Dodges Street Railway Franchise Question Completely

OLD FRIEND IS UP

Hitchens Document Is Given Some New Trimmings and Frills

The council is making haste very slowly in its consideration of street railway matters. Everybody stood mum on the subject of the Cleveland Electric Railway Company's franchise offer Monday night, and no motion was made to take it from the table, where it was dumped at the last session.

All the city fathers and other officials whose duty it is to attend council sessions seemed unusually desirous of getting away to socials, pedro parties and the other diversions that while away their evenings. This warm weather lethargy indisposed them to provoke a warm debate or to do anything other than what the routine enforced.

Of minor legislation there was a flood. Councilman Maulberger made some stir by a resolution calling upon the lighting committee to report the Feighan electric lighting ordinance, introduced long ago and never brought back from committee. Maulberger intends to make a fight for regulation of prices of electricity. The ordinance will be reported next Monday.

The Hitchens ordinance, which is becoming an old friend, came out for new trimmings in the way of paving and transfer amendments. The company will be asked to pave between its tracks when laid in unpaved streets. Amendments by Councilman Haserodt seeking to enforce arbitration of street railway labor troubles and to allow regulation of fares at any time were voted down. The Woodland Hills crosstown franchise was amended to add a strip in Doan street for 525 feet north of Superior street.

Councilman Felton was the only one with sufficient energy to vote on this amendment and one cutting out Quincy street from the proposed grant, and his lonesome "aye" carried the change. All the new franchise ordinances come up for third reading next week.

Into City Solicitor Baker's charge was given the proposed ordinance to issue \$170,000 bonds for better fire main service. He expressed an adverse opinion as to its legality, owing to the limited powers of the city under the Longworth law.

WON FIGHT FOR ORPHAN GIRL

Adopted Daughter of Policeman Stedman Will be Given a Pension.

Grant Was Not Made Till Legal Point Was Settled by City Solicitor.

Member Hugh Buckley of the board of public safety, after a vigorous fight at the meeting of the board of trustees of the police pension fund, yesterday won his fight to have Miss Helen Stedman, daughter of the late Patrolman Stedman, placed on the pension list. The fight has been carried on for two months.

Stedman was killed two months ago by a street car in the square. Miss Stedman is a daughter by adoption. For this reason the trustees of the pension fund refused to grant her a pension. Mr. Buckley vigorously protested against the action of the board in barring Miss Stedman. He fought to secure a reversal of action.

A month ago he brought the matter up, but was defeated. He again started action yesterday. Capt. Madden was most vigorous in opposition to admitting Miss Stedman. The question finally resolved itself upon the legality of the proposed action. City Solicitor Baker was then called in. After studying the laws on the subject he finally decided that the daughter of a wife of a patrolman who was not the man's own daughter but who was adopted by him after marriage was entitled to the pension. Miss Stedman, being the daughter of Mrs. Stedman and adopted by Stedman after his marriage, came under this ruling, and when it was made the trustees very promptly and without a dissenting vote placed her on the pension list.

The trustees yesterday also placed Fred McLaughlin, infant son of the late Patrolman F. D. McLaughlin, on the pension list. McLaughlin died on Jan. 8. The child was born on April 29, nearly four months after his father's death. He will be entitled to a monthly pension until he is sixteen years old. Three other children of McLaughlin are already on the pension list.

Preceding the meeting of the police trustees the trustees of the firemen's pension fund held a meeting. Joseph Rothgery, who resigned the position of chief operator of the telegraph system, was placed on the pension list. Charges were originally preferred against Rothgery. Immediately afterward he resigned. The charges were not pushed and the resignation was permitted to become effective, Rothgery thereby becoming entitled to a pension of \$85.94 a month.

FIGHT PROBABLE ON THE REPORT

Glenville Annexation Likely to Stir Up Sharp Contest in Council.

Criticism of Provision Regarding Policemen and Firemen.

There will probably be a vigorous and interesting fight on the report of the Glenville annexation commission, arranging terms and conditions for the annexation of Glenville, before that report is disposed of by the council. The report was filed several weeks ago, but has not yet been considered by the judiciary committee of the council.

Announcement was made yesterday that this committee would meet at 3:30 o'clock Friday afternoon for the purpose of taking up the report. The threshing out of various involved questions will be begun at that time.

City Solicitor Baker devoted considerable attention to the report yesterday. Mr. Baker says that there will be some difficulty in accepting it although he is hopeful that it will go through.

"The trouble is," said he, "that the annexation commissioners have attempted to regulate matters that are beyond the control of the council. I am afraid that a number of changes will have to be made."

Objections to a number of clauses of the report have previously been expressed by other city officials. The objections were based on the provisions that Glenville's firemen, policemen and other employees should become employees of Cleveland's similar departments without further examination, etc. Baker's expressed informal opinion that the council has not the power to make lawful the suggestions of the report adds to the interest in the fight that will be made over its acceptance.

Republican members of the council may attempt to force the adoption of the report without change. The commission is a body named by them with the assistance of Wilke and Dewar, Democrats.

BAKER SPOILED THEIR PLAN.

Members of the committee from the Chamber of Commerce who have been trying for the past year to have council authorize an issue of bonds to extend the fire system received the opinion of Solicitor Baker with regret. Baker holds that council has no right to authorize the issue of \$170,000 in bonds for the purpose of putting in large mains, and the only way the system can be enlarged is by vote of the people or an act of the legislature.

Members of the committee worked for a year on the matter, and had just gotten the fire committee to approve their plans when Baker's opinion was given.

NEGLECT LEFT CITY POWERLESS

Ordinances Granting to W. & L. E. Rights Didn't Provide for Gates.

Company Will be Hit Hard Unless It Protects the Public.

Councilman Orgill, after an investigation yesterday, found the city was powerless to compel the Wheeling & Lake Erie railroad to erect gates at the Newburg crossings. The crossings are among those the council by resolution last November ordered protected by gates.

The road made no effort to comply and Orgill yesterday began to look for means to compel the road to act. He conferred with City Solicitor Baker. An examination of city ordinances granting the company the right to cross streets showed that the council had made no reservations whereby certain conditions could be imposed upon the company.

"The state law places in the hands of a railroad commissioner the power to compel placing of protecting gates, alarm bells, etc.," said Orgill. "He has sole authority to act and the city can do nothing."

"I have consulted President Springborn, however, and other methods will be tried. The road is to be requested to equip all crossings with gates once more. A certain amount of time will be given in which to make some effort to comply. If the company then fails to move Mr. Springborn has promised that every city ordinance governing the operation of steam railroads within the corporation limits will be enforced.

"These ordinances are numerous and can be enforced. At least a number of them will stand all tests. By their strict enforcement I believe the company can be brought to time."

Orgill believes that the W. & L. E. will readily comply when policemen are stationed along its right of way to make arrests for any violation of an ordinance.

The Mayor's Pianos

City Solicitor Newton D. Baker has a nicer piano than Mayor Tom L. Johnson. As a matter of detail, Mr. Baker has a piano that is worth just twice as much as Mayor Johnson's pair of pianos, according to the tax returns of these two prominent city officials.

A fond idea has been shattered and people who have passed the palatial home at Euclid and Oliver should no more point to it as the residence of the chief executive, with all sorts of side remarks about the luxurious furnishings.

To use the vernacular of the streets, the Johnson family must play upon a "bum" piano. One of the two possessed by the family is worth only \$50. As there are a pair of pianos in the house, however, it may be that the \$50 article is merely a kitchen piano on which the

butler and maids and valets and secretaries and chauffeurs and coachmen and footmen may drum out their favorite melodies while waiting for honor to come down to breakfast.

There is a parlor piano and to outward eyes it appears to be a magnificent instrument, but if the dealers take occasion to notice the value that the mayor puts upon it they are not likely to run his picture on posters along with Patti, Paderewski, King Edward and all the other celebrities. Each of the others has written out a beautiful little "note of commendation" about the purity of tone and all that sort of thing, but imagine their dismay when the dealers discover that the mayor declares that his parlor instrument isn't worth a penny more than \$150*

That brings pianos within the reach of the humble. There is no reason now why every little cottage in the city should not possess its "concert grand." No person need bewail the absence of an "instrument" from the family fireside. The day has come when Maggie Mooney may entertain her friends with a soiree musicale instead of the old-fashioned organ and fiddle. She may not blush to invite the great artists to "try" her piano, for \$150 buys an instrument good enough for a Euclid avenue palace, and why not good enough elsewhere?

The interesting matter, however, is that one of Mayor Johnson's official subordinates has a better piano. Mr. Baker's is worth \$400! That would be enough under ordinary circumstances to stir the Johnson family to envy; but if the mayor cannot afford better than a \$50 piano for his servants and a \$150 piano for his drawing room, he is not to be ridiculed. The fact that he has two pianos shows that he loves music, and that should be enough.

SECRET WELL GUARDED.

Solicitor Baker Has Given an Opinion as to the Legality of Summer Schools.

The public school tax levy for the ensuing year will be fixed at a special meeting of the board of education this noon. Director Orr will have a table of figures prepared by experts. It is probable that the board will fix the levy in the neighborhood of 11 mills.

After disposing of the tax levy Director Orr will present to the board the opinion of City Solicitor Baker as to the legality of summer schools. The director is closely guarding this opinion and will give no hint of its contents until it is presented to the board. One of the members last night said that it would not surprise him if the decision were against the present summer schools in light of the decision of School Commissioner Jones that the Toledo normal school is illegally maintained out of the city school fund.

"If it is illegal to take money from the city fund for keeping up normal schools, I suppose it is illegal to use the money for summer schools," said a school board member. "no special provision being made for them in the regular statute, but from the fact that we have conducted the summer schools for several years, I think it quite improbable that we discontinue them now."

NO FAVOR FOR OLD COMPANY

Councilmen Fear It May Pave Way for Concession to Three-Cent Road.

Halle Announces Disagreement With Baker on Legal Points.

Decided opposition has developed to the plan of President Springborn of the board of public service to permit the Cleveland Electric Railway Co. to lay street railway tracks in Woodland Hills avenue, from Union to Kinsland streets, in advance of paving, and a most vigorous fight in the council on the Thompson resolution authorizing the company to lay the tracks is now presaged.

Republicans will make the fight and it will develop, so it is rumored, as a result of Springborn's announced intention later on to extend the privilege to the Forest City Street Railway Co. of laying tracks in Rhodes avenue in advance of paving.

Rumor of possible opposition to Springborn's plan has been a subject of much gossip about the city hall for several days. Rumor based this opposition on the fact that Republicans feared that if the Cleveland Electric was permitted to lay tracks the council could not consistently withhold a like privilege from the low fare company. It was argued further that the granting of such a privilege to the low fare company might lead to results that would be unpleasant and therefore opposition to the Thompson resolution was decided on.

Until yesterday, however, this reported opposition did not publicly develop. Councilman Halle met City Solicitor Baker in the city clerk's office during a discussion of annexation affairs late in the afternoon and Halle promptly brought up the Woodland Hills avenue matter. He expressed the opinion that the city had no legal right to authorize the company to lay the tracks. Baker expressed the opinion that such action would be legal and Halle then said:

"I am inclined to think that if the question gets as far as the council I shall oppose it. If we allow the company to put in the rails we are allowing them to acquire some rights in the street."

The Thompson resolution has not yet been acted on by the council committee, but the street railway committee will probably make some report on it at Monday afternoon's meeting. The committee is solidly Republican.

The lighting committee of the council decided Monday to refer the Feighan lighting ordinance, introduced in 1903, to City Solicitor Baker for reconsideration. The resolution, which has been in the hands of the committee for the two years intervening, provides for a 30 per cent reduction in the prices paid for street lights. It was approved by Baker at the time, but the committee wants another opinion.

BREAKERS AHEAD FOR ANNEXATION

Baker Finds Flaws in Report of Cleveland-Glenville Commissioners.

Suburban Firemen and Police Will Have No Free Right of Entry.

Consideration of the report of the joint commissioners arranging terms and conditions for the annexation of Glenville to Cleveland was begun by the council committee on judiciary at a meeting held in the city clerk's office yesterday afternoon. Halle and Orgill were the committee members present. City Solicitor Baker rendered an opinion relative to the legality of some of the terms and conditions and handed the committee an ordinance providing for the adoption of the report.

Attorney M. P. Mooney, a member of the joint commission, was then sent for and the various questions were discussed for several hours.

Baker in his report takes up as the first serious matter the parts of the report providing that Glenville's firemen and policemen must be admitted into membership of Cleveland's departments without examination or question and that the chief of the Glenville fire department shall become a captain in the local department. He describes the fact that the municipal code says the two departments shall be maintained upon a strict merit system and that all appointments in either department must be made by the mayor from lists of persons eligible to appointment certified to him by the board of public safety, such lists to be prepared as the result of competitive examinations.

"No provision," he said, "is made for entrance into the fire and police forces in any other manner, and as you will observe the entire question of appointment to those departments is vested in the mayor, subject to the restrictions of the merit system requiring the co-operation of the directors of public safety."

The recommendation that Cleveland then be divided into twenty-seven wards and Glenville placed in a separate ward is then taken up. Speaking on this Baker cites the provisions of the code relative to redistricting, calling particular attention to the fact that but three things in this respect are empowered. First, redistricting prior to Jan. 1, 1903, which has already been done; second, the empowering and directing the council after each recurring federal census again to redistrict the city, which cannot be done, of course, until after the federal census of 1910, and third, a provision that the city be redistricted whenever there is annexed any territory containing by the last federal census such number of inhabitants as will entitle the city to additional member or members of council.

"This it will be observed," continues Baker, "does not empower the council to redistrict the city when by growth of population from a variety of causes, it is entitled to an additional councilman, but only when territory annexed contains a sufficient number of inhabitants

to entitle the city to another member of council." The number of inhabitants in Cleveland would be 15,000. Glenville does not contain nearly this number.

The questions were discussed a long time and the committee finally adjourned to meet Monday afternoon for a further consideration of the matter. It is probable that Mr. Baker's recommendation will be followed and the report returned to the commissioners with the city solicitor's opinion.

MAY O. K. MEASURE.

CHAIRMAN SAYS COMMITTEE IS FAVORABLE TO HITCH- ENS ORDINANCE.

A special meeting of the street railway committee of the council will be called for Thursday afternoon by Chairman Henry Pears to consider the amendments offered to the Hitchens Concon franchise ordinance.

As prepared by Hitchens the ordinance grants an extension of all grants of the Concon to July 1, 1925, provides for eight tickets for a quarter with one transfer, except on the cross-town lines, where an additional one is to be given if it is necessary to transfer a second time in order to complete a trip.

Chairman Pears said Tuesday discussing the Hitchens ordinance: "We would have reported on the ordinance last night if it had not been so amended. As it is now five amendments are offered. Two of these are by Hagerott. Solicitor Baker reported on these. He said there was no legal objection, but he doubted whether they would add anything to the value of the ordinance so far as the city was concerned. Two by Maulberger provide for 3-cent fare and right of the city to purchase the property. The other came from Beisinger, who seeks to make the lines of the company in any territory contiguous to the city subject to the same provisions as the lines in the city, provided the territory is annexed to the city. If the ordinance had been left as it was I know that the committee would have reported favorably on it. I know now that the members of the committee are favorably disposed to it, and it is probable that it will be reported favorably."

MAYOR IS SILENT ABOUT THE PICNIC

REFUSES TO DISCUSS NEXT MOVE IN HIS MUNICIPAL OWNERSHIP CAMPAIGN.

MR. BAKER IS UNDISMAYED

CITY SOLICITOR THINKS THAT MR. DALRYMPLE UNINFORMED ON CLEVELAND CONDITIONS.

ANDREWS COMMENDS SCOTCH EXPERT

Street Railway President Declares Visitor Has Clear Understanding of American Municipal Affairs —Salem Not Talking.

Mayor Tom L. Johnson has not yet recovered from his shock at the attitude which James Dalrymple, the Glasgow municipal ownership railway manager, took Saturday afternoon at the opening of the Democratic municipal ownership campaign at Luna Park. The expert had been invited to come to Cleveland by Mayor Johnson. He was expected to advocate city ownership of street cars for Cleveland, but, on the contrary, took the opposite platform most emphatically.

Consequently, things have not turned out as Mayor Johnson anticipated, and with the uncertainty of the head of the administration, there also appeared a general lack of interest in Glasgow's street car system among the municipal ownership experts in Cleveland. Neither Mayor Johnson nor Charles P. Salem would talk about the affair yesterday and the only man who had a good word for the man who made the hard trip from Chicago to Cleveland to plead a cause contrary to the one he upholds at home was City Solicitor Baker.

There was one man in the Democratic camp who wasn't afraid to express an opinion on the visit of the great Scotchman. "He's had experience and must know what he's talking about," said Newton D. Baker, city solicitor. "When he said that no municipal railway could exist where there was politics, he meant no municipal railway could exist where there was Scotch politics. He doesn't know what Cleveland politics are," which astute observation was pointed out by the expert himself in his opening remarks in the famous speech at the opening of the Democratic campaign.

Mr. Baker himself claims to know nothing about Cleveland politics, and so did not venture upon any calculation of the probable spurt in the municipal ownership boom which was launched by Mayor Johnson.

SOLICITOR BAKER GAVE
opinion that council had the right
to fix rates for electric lighting.

NO EQUALITY FOR FIREMEN

Convention of Stationary Engineers Opposes Granting of Licenses.

State Gathering of N. A. S. E. Opened in Cleveland Yesterday.

Strong opposition to the proposed effort of the stationary firemen's organization to have themselves licensed by the state, developed at the annual session of the Ohio division of the National Association of Stationary Engineers at the Grays' armory yesterday.

The engineers adopted resolutions stating their opposition and also announcing that their members would go before the state legislature and fight against the proposed act.

Some fifty members of the convention spoke against the granting of the firemen state licenses. Their statements were in no ambiguous terms and their speeches became quite heated at times. The discussion was aroused by a resolution introduced by the delegates from Cincinnati asking the engineers to fight the firemen's movement.

The principal objection cited by the engineers to the firemen being granted regular licenses by the state, after having passed an examination, was that the responsibility of a plant would be divided. The engineers say that when a fireman is working under a license he would have the power to order every one else from the boiler room, the chief engineer of the plant included. This the engineers say would cause considerable friction between the two men, otherwise so closely associated, which would impair the efficiency of the plant and subject the building to dangers of trouble in the boiler room. The engineers claim that to them belongs the right, by virtue of their greater knowledge of steam engineering, personally to superintend every part of a plant; to go down in the boiler room if necessary and give orders for the proper conduct of the plant.

The convention opened yesterday morning with more than 300 delegates present. City Solicitor Newton D. Baker welcomed the delegates on the part of Mayor Johnson who is out of the city. Charles H. Garlock of Pittsburgh, past national president, delivered the response.

BOND ISSUE LEGAL SAYS SOLICITOR NOW.

City Solicitor Baker has decided that the council has the right to issue \$170,000 in bonds for a high pressure water service down-town. Baker held informally that the issue was not possible, but after a thorough investigation changed his mind. He is preparing an ordinance providing for extension of the service.

GUNN TO START SUIT FOR CASH

Proposes to Carry Case to High Courts—He Is Wrathful

William E. Gunn, who claims he is entitled to be city clerk instead of Peter Witt was very wrathful Saturday when he found that Clerk Witt had drawn his salary for May during the 40 minutes when there was no injunction in force on Friday. He said he intended to sue City Auditor Madigan and Treasurer Coffinberry for the salary for himself and carry it to the highest court in the State.

Solicitor Newton D. Baker slipped over to the court house Saturday and argued so well that Judge Neff increased Gunn's bond for a continuance of the injunction, from \$200 to \$1,000. Gunn gave the new bond Saturday.

"It was an unprofessional and scurvy trick to pay Witt that money," said Gunn. "I'm going to sue Auditor Madigan and Treasurer Coffinberry for the salary for myself for May and they'll have to pay it if I have to take it to the supreme court."

The injunction against paying Witt his May salary was continued in force, but Witt got the money Friday afternoon.

CITY HAS POWER TO ISSUE BONDS

New Opinion on Raising Money for Extending High Pressure Fire Service.

Funds Probably Will be Raised to Better Protect Downtown District.

The question of issuing \$170,000 worth of bonds for the purpose of extending and enlarging the present high pressure fire service west of Erie street so that it may be operated from the fireboats will again be presented to the city council Monday evening.

The committee on finance of the council reported favorably on the plan at the meeting of May 29. At the next meeting of the council City Solicitor Baker requested that the matter be referred to him, since there were doubts as to whether or not bonds for the

purpose could be legally issued. Baker at that time was inclined to believe that the city did not have the power to issue such bonds.

Yesterday he drafted a formal opinion on the subject and the opinion completely reverses his informal opinion and says that the city has the power to issue such bonds. The Chamber of Commerce, local fire insurance men, businessmen, manufacturers, etc., are deeply interested in the matter and Baker's opinion will be received with considerable satisfaction by them.

In his opinion Baker says: "The pipe lines proposed to be constructed are undoubtedly urgently required for the better protection of the district proposed to be covered, where the conflagrational risk is greatest, and a careful consideration of the provisions of the Longworth law which determines the power of the city to borrow money, leads me to the belief that subsections 2 and 27 of that act, taken in conjunction, afford sufficient authority for such bond issue."

Baker's opinion will go to the council Monday evening and following it an ordinance will undoubtedly be introduced into the council providing a sale of bonds for the purpose.

The question is now in the hands of the boards of public service and safety and the council committee on fire. All these bodies have expressed a favorable attitude on the question of issuing bonds at once.

WILL ENFORCE ORDINANCE.

Solicitor Baker Disputes Claims That Fireworks Measure is Nonenforceable.

Fireworks dealers yesterday expressed an opinion, based on legal advice given a number of them, that the new fireworks ordinance, in which the firing of blank cartridges, blank cartridge pistols, nitroglycerin, fireworks containing such material, repeating marbles, toy cannons or dynamite torpedoes was prohibited, was not legal for the reason that the ordinance carried no penalty with it for a violation.

Councilman Kraus was among those informed that the ordinance was not enforceable.

City Solicitor Baker, when informed of the matter last evening, insisted that the ordinance was enforceable and entirely legal. "The ordinance passed by the council last winter amended section 347 of the revised ordinances," said he. "That is simply one section of a chapter and the following section provides a penalty for violation of anything in the chapter."

The police will therefore enforce the measure.

START WORK ON APPROPRIATIONS.

Ordinance in Blank Will be Introduced Tomorrow.

The appropriation ordinance, fixing the budget of all city departments for the last half of the year, will be introduced into the council tomorrow evening in blank form. The ordinance will be whipped into shape later on. Its presentation in blank is done so that the measure may be passed on the first meeting in July.

The ordinance will carry many millions of dollars with it and involves an immense amount of work. City Solicitor Baker, the members of the board of public service and City Auditor Madigan were engaged nearly all yesterday in the work of getting parts of the measure ready.

It is expected that the council will pass the ordinance without any serious objections.

READY TO BUILD MARKET HOUSE

**City Will Go Ahead at Once if
Yesterday's Decision
Gives It Power.**

**West Side Commission Was
Knocked Out by the Su-
preme Court.**

The supreme court in Columbus yesterday handed down a decision sustaining the lower courts in the case of the West Side market house commission.

The commission is knocked out and the decision probably places full power in the hands of the board of public service, in which event, according to President Springborn, work on the market house for the West Side will be resumed at once. The matter has been held in abeyance for two years as a result of the fight between the administration and the market house commission.

The West Side market house commission was created under a special act of the legislature, and consisted of A. G. Daykin, Henry Slatmyer and John Goetz. When the new code was adopted a provision was incorporated providing that boards of public service could, if they wished, dispense with market house commissions and take charge of city markets.

Previous to the taking of office by the service board two years ago the commission did many acts that were not favored by Mayor Johnson. He particularly opposed the policy of Al Daykin. Immediately after assuming office the service board attempted to supervise the work of the commission, just as it does the transactions of the city hall commission. The commissioners objected and their resignations were asked for. Instead of submitting them suit was commenced in the courts to enjoin further action by the service board.

"I am hardly prepared to say what will be done now," said President Springborn of the service board last evening, speaking of the decision. "I do not know what the decision is. It may mean simply that the market house commission is ousted without giving us any power.

"Of course if the supreme court has decided that we have the power we will proceed with the market house as far as present available funds will permit us. We will have plans prepared and will begin excavating for foundations, etc., immediately. There is now some money, I think about \$50,000, available, and this will aid largely in the work. Residents of the West Side have been promised a market house and should get it."

City Solicitor Baker was gratified at the court's decision, but said that it had absolutely no effect on the standing of the city hall commission.

"That body stands on an entirely different basis," said Baker.

MAY GO AHEAD AND FIX RATES

**Democratic Councilmen Again
Seek to Regulate Price
of Electricity.**

**City Solicitor Says No Legal
Objections Stand in
the Way.**

City Solicitor Baker yesterday decided that the city council has power to pass an ordinance fixing rates at which electricity may be sold by private companies to consumers and said further that the city, under the state law, has the absolute right to regulate lighting rates.

The decision effectually disposes of all further cause for dilatory action on the part of the council committees and means that ultimately the question of fixing lighting rates will have to be passed on by the council.

The lighting question was raised in the council two weeks ago last Monday when Maulberger, Democratic leader, requested that the committees on lighting and ordinances report back to the council the ordinance to fix rates, which had been introduced a year before by Councilman Feighan.

A week later further time was asked for by the committee and at last Monday's meeting of the committees further time was gained by a decision to refer it to the city solicitor for an opinion, although at the time of introduction of the ordinance Baker had reported that the council could legally pass it. The committee, however, thought that subsequent court decisions might have some adverse effect and again asked the solicitor for an opinion.

Further time will probably be taken by the council committees before reporting the measure and this was indicated by Chairman Remy of the lighting committee when informed of Baker's opinion last evening.

"We shall meet again Monday afternoon," said he. "But since some members of the council desire to secure an expression of public opinion on the matter and in view of the fact that our invitation for an attendance of the public at our last meeting was not suggested, we will probably decide only to hold another meeting at which we will try to have interested parties present."

ORGANIZED TO BUY PROPERTY.

**Councilmen Will Investigate Con-
ditions of Case Realty.**

A number of councilmanic committees, with the councilmen representing the first seven wards of the city, met Monday afternoon and talked over the purchase of the Case property for the group plan.

Solicitor Baker told the councilmen that any purchase had to be approved by the councilmen-at-large and the councilmen from the first seven wards. They therefore organized as a body for this purpose, electing Councilman Pears chairman and Councilman Lewis secretary.

Baker will furnish them with data concerning the number of leases on the property, the length of time they have to run, the value of the property and the present income. The next meeting of the councilmen will be on July 3.

COAL MEN WANT CITY TO PAY UP

**Purchases Made Illegally;
Madigan Has Closed the
Cash Drawer.**

**Suit to Compel Payment to be
Brought Against the
Auditor.**

Suit to compel City Auditor Madigan to issue vouchers for the payment of \$5,193.64 to eight or nine of Cleveland's coal dealers is to be begun by these dealers working in conjunction in the near future. The suit will be the outgrowth of the alleged illegal purchase by the board of public safety of coal for the police and fire department.

Alleged illegal purchases have been made by the board for nearly a year past and Madigan has been persistently holding up bills until the total now exceeds \$5,000. Representatives of all the interested coal dealers called on Madigan for a conference yesterday. During the debate vigorous attacks were made on the auditor and he finally retorted:

"You men represent the first body of citizens that I have dealt with that refuse to aid city officials in transacting business according to law."

When the safety board received bids for coal about a year ago the members came to the conclusion that the bids were too high and that the coal could be bought cheaper without entering into contract. Regardless of an opinion by City Solicitor Baker that supplies could not be purchased in this manner the board proceeded to purchase coal in any quantity desired. When the first bills were submitted to the auditor he asked the solicitor for an opinion.

Baker replied that the method was absolutely illegal and in defiance of the code, but advised Madigan to pay the bill with the understanding that future bills of like nature would not be paid. Madigan has since refused payment on all bills, although the board continues the illegal method of purchase.

After yesterday's conference the coal dealers agreed to employ counsel to look after their claims. Their lawyer will hold a conference with Solicitor Baker in a few days and a suit, probably friendly in nature, will be begun immediately afterward to test the section of the code that is in question.

MAYOR TOM TO USE VETO.

Mayor Tom at noon Monday told a delegation of citizens interested in the building of the cross-town street railway on Woodland Hills-ay that he would veto the ordinance Monday night. He also said that with the veto he would tell his reasons for the action, and suggest at least two ways that the line could be built, with safety to the city.

The delegation was headed by Councilman Felton, author of the ordinance granting a franchise for the line, and Councilman Orgill. F. D. Morrow read a petition signed by 3000 citizens living along the proposed route, protesting against the mayor's veto. He said that the territory had been kept from having street railway facilities for the past 20 years and that at least 100,000 people were being thus inconvenienced.

"Solicitor Baker says the ordinance is safe, and I see no reason why it should be vetoed," said Morrow.

Mayor Tom denied that Baker had said that the ordinance was safe. "Baker said that it was as safe as he could make it, but he could not predict what the United States court would do with it," said the mayor. "The people along the line have not been kept out of a road for 20 years, as the company never expressed a willingness to build the line until three years ago. It is dangerous at this time to grant the franchise. It would further complicate the railroad situation. The company now has a suit pending in the United States court claiming perpetual franchise on lines where franchises were granted under like conditions, and only last week claimed that it would win the suit. If this lawsuit were settled, many other questions in the street railway situation could be settled."

Mayor Tom said he realized the necessity of having the road built just as much as property owners who wanted the Concon to assist in paying for their paving.

"There is a way to settle the question safely," said the mayor. "I will do everything in my power to give the people of the vicinity street cars, but I will not further tangle the question."

NEW VIADUCT GATES.

Council Will be Asked to Provide Stronger Safeguards Against Accidents.

The accident of last Thursday afternoon, when a runaway horse attached to a wagon dashed through the gates at one end of the Superior street viaduct and plunged through the draw to death in the river below, has again stirred agitation for devices that will further strengthen safety devices that already

exist on Cleveland's viaducts. The matter is to be made the subject of councilmanic action at the meeting tomorrow night.

Not very long ago Councilman McKenna caused the passage of a resolution by the council demanding that the street railway company detail men at both ends of all viaducts to operate the derailing switch. He presented the resolution and asked for its passage on the ground that a special operator meant greater security for street railway traffic. Since Thursday's accident several councilmen have had similar questions under consideration, and as a result of the agitation Councilman Robinson yesterday requested of City Solicitor Baker that he prepare a resolution on the subject for introduction into the council.

Mr. Baker stated yesterday that the resolution would simply request the city engineer to prepare, if possible, plans that would provide gates of greater security for the viaducts. The resolution will further ask that the plans be furnished the council at the earliest possible moment.

"The gates now in use may be safe enough for all ordinary purposes," said Robinson, "but we need a kind that will be safety gates in case of emergency. We should not use gates that a runaway horse can force through. The gates should be strong enough to stop a horse."

MARTINSBURG.

W. VA., JUNE 27

A Deserved Compliment.

In the July number of McClure's magazine, in the course of an article by Lincoln Steffens, entitled "The Tale of two Cities" in which the government of Cleveland, Ohio, of which Tom Johnson is Mayor, is compared with some other city, the following paragraph occurs which is decidedly complimentary to a native of this city and a former well known resident, Mr. N. D. Baker, Jr, son of Dr. N. D. Baker.

"The best department of the best government, is the law. Newton D. Baker, the head of it, is clear, able and best of all fair. He has directed all the many obnoxious litigations for the city against "business" and yet business men, who sneer at Johnson and all his men, except Baker, because, while he fights for the city, he fights fair. But how is this to be shown? All I can say is ask any Clevelander about Newton D. Baker."

WANTS \$45,000 FOR NEW MARKET

Public Service Board Will Ask Council for Full Appropriation.

Legality Will be Passed on by City Solicitor Baker

Later.

The board of public service yesterday decided to ask the council to authorize an appropriation of \$45,000 for the building of the new West Side market at the corner of Pearl and Lorain streets.

The appropriation was urged by Member Leslie and approved by President Springborn at a conference late in the afternoon. This sum of money is in the city treasury, but pending an opinion by City Solicitor Baker, the amount that may be used for building purposes is uncertain.

The council will be asked to authorize the appropriation of the whole sum, however, for building purposes and the question of whether any or how much may be used will then be passed upon by City Solicitor Baker. Before he can act he is awaiting the arrival of a copy of decisions affecting the question handed down by the supreme court Tuesday. Speaking of the matter yesterday Mr. Baker said:

"If that sum, being the receipts from markets, must go back to the sinking fund trustees to meet outstanding market bonds then we will have to provide revenue to maintain the markets by taxation. If not we can use a part for maintenance of the markets and the balance for the building of the new market. It requires about \$9,000 a year for market maintenance. In case none of the money can be used for building purposes bonds will have to be issued."

The decision of the common pleas court a few days ago in the case, in which the legality of Architect J. Milton Dyer's contract for building the new city hall was attacked, also had a bearing on the market situation. Had Dyer lost the market house law would have been declared unconstitutional as a sequence and the West Side would have had to go without its market.

POINTERS ON RATES.

Council Committee to Get More Information Before Proceeding With Electric Lighting Ordinance.

Action on the Feighan ordinance fixing the rates that may be charged for electricity was again postponed for nearly two weeks by the council committees on lighting and ordinances at a meeting held yesterday.

Invitations were extended to many local practical electrical men to attend the meeting, the object in view being to secure some knowledge of the cost of production. The appearance of one practical man, a representative of the Cleveland Light & Power Co., was the result. The Cleveland Electric Illuminating Co. was represented by Attorney Howard Cobb and a stenographer, who took down every word of the proceedings.

The meeting was opened by the selection of Councilman Remy, chairman, and Horner, secretary. An opinion from City Solicitor Baker bearing on the legality of the ordinance was then read. Mr. Baker held there is no contractual obstacle to the passage of an ordinance of this character.

"This department is not equipped to say whether or not the rates attempted to be fixed in this ordinance are reasonable," Baker said in closing.

It was upon this last section of Baker's opinion that it was decided to take further time for investigating the proposition. It was decided to adjourn until a week from Friday evening, the committee in the meantime writing to a number of cities for information concerning electric lighting rates in those cities.

RIP UP J. P. SYSTEM.

Police Prosecutors Say First Arrests Are Only a Starter-- "A Political Play," Says Squire Fellows.

A sweeping crusade which will embrace nearly every justice court in the city will be begun if a case now pending is successful.

Prosecutor Levine is accumulating evidence against several justices. Arrests will be made as soon as definite proof can be obtained.

Justice S. C. Fellows and Constable Drew, under arrest on the charge of extortion, pleaded not guilty before Judge Fiedler Saturday morning. Their cases were continued to June 30.

"A case of political play," was Justice Fellows' explanation of his arrest. "We will fight this case to the end and promise that there will be things doing before it is over with."

Drew spent the night in jail. He claims he had a bondsman good for \$4000, but that the prosecutors had issued orders that no bond should be taken from him. He was

Released on Bail however, Saturday morning.

"One of the greatest wrongs from which the people of Cleveland, especially the poor, suffer, is the out-of-town justice in the city."

This is the opinion of City Solicitor Baker. "THERE SEEMS TO BE NO REMEDY AT THE COUNTY PROSECUTOR'S OFFICE. THE ONLY HOPE LIES IN THE POLICE COURT."

"Two years ago indictments for extortion were returned against Justice Trueman and Constable Becht.

They are still hanging. Nothing is being done."

The statutes provide a heavy penalty for misconduct of office. Section 6909 provides that a penalty of \$200 and 20 days in the workhouse may be given Justice Fellows and Constable Drew if they are proven guilty. The offenders

May Be Disqualified seven years.

Complaints from outraged justice of the peace victims dating back two years have been pouring into Prosecutor Levine's office since the arrest of David Zinner. The complainants say they have been afraid to make protests or thought the police courts had no jurisdiction.

FIRST BLOOD WON BY CITY

ARRAY OF LEGAL TALENT IN JUSTICE EXTORTION CASES BEGUN FRIDAY.

An imposing array of legal talent was at the opening of the Justice Fellows and Constable Drew extortion cases in police court Friday. The defense was represented by six attorneys, headed by Walter D. Meals. City Solicitor Baker took charge of the city's case.

First blood was drawn by the city in obtaining the court's refusal to a motion for separate trials.

The warrant charges Fellows and Drew with charging greater fees than are allowed by law. The defense will try to prove that the two were following the precedents laid down by other justices and constables.

WORKHOUSE FOR N. D. BAKER, NO. 2

Not the City Solicitor, but Mr. "Swoop-in-the-Air," a Civilized Redskin.

Stole the Solicitor's Trousers and Name, and Has Other Claims to Renown.

Newton D. Baker, otherwise "Eagle-That-Swoops-in-the-Air," started on a trip of improvement to the workhouse yesterday afternoon.

The aforesaid Newton D. Baker is not the city solicitor. That kind hearted public official tried to reform him once—but only once. Mr. "Eagle-That-Swoops-in-the-Air" not only disappeared with a pair of trousers belonging to the city solicitor, but filched from him his good name as well, adding it to his already long and euphonious appellation.

The city solicitor begged and threatened in vain. He wanted his name back. He quoted from musty and dog-eared law books. "Eagle-That-Swoops-in-the-Air" said he was Newton D. Baker, and that was all there was about it. The city solicitor could be Newton D. Baker, too. He did not insist on monopolizing such a good name. He was generous. But he held it to be one of the inalienable rights of an Indian to annex felicitous names on sight.

"Eagle," as he is called for short, faced Judge Whelan in police court yesterday morning charged with violating the property ordinance. He had been found sleeping in a box car in emulation of certain of his paleface brothers. It was not his first visit to the crowded courtroom. Despite his twenty years, the list of his misdeemeanors was long and nobody knew it better than the judge.

"Eagle" had forsaken the forests of his fathers for the white man's civilization, and had received a good education at the Carlisle Indian school. He played the guitar, was a star sprinter and football man, and played second base on the baseball team.

Two years ago he of the much hyphenated name came to Cleveland. He secured a position squirting ice cream soda, but did not spring into fame until one bright summer day he purloined a suit of clothing made expressly for the late Senator Hanna. When released from jail he repeated the trick, this time taking a suit of clothing from Mooney Bros., tailors. The suit was intended to be worn at the inauguration of Gov. Herrick at Columbus. The governor was inaugurated, but Mr. "Eagle" went to the workhouse.

Petty pilferings have kept him before the eyes of the police ever since. Accordingly Judge Whelan sent him on his fifth trip of improvement to the Woodland avenue theft cure institution.

USE SINKING FUND OR NO CITY HALL

No Other Money is Available
for Securing a Site, Says
Solicitor Baker.

Failure to Effect Purchase of
Case Property Will Block
Group Plan.

City Solicitor Baker yesterday emphatically declared that unless the council approves the plan of purchasing the Case property with funds now in possession of the sinking fund commissioners of 1862, it would be useless to attempt the building of the city hall.

He also said that all questions of legality being raised by opposing councilmen had been raised in the suit against the old sinking fund commission now pending.

The approval by the council of the plan of the commission to buy the land would settle legal questions without further ado.

Leading city officials agree with Baker and say further that failure of the council to give its approval will probably mean the serious hampering and possible blocking of the plan for giving Cleveland its group of public buildings.

"The Longworth law limits the city in bonding," explained Mr. Baker, "and we cannot overbond. Inside of a few years all the bonds permissible under that act will have been issued and it would only be by skimping on other improvements that we would be able to build the city hall, but we would be unable to buy any land."

There is no question but that, if the council approves the purchase as proposed by the sinking fund commissioners, it would go through. Purchase with money held by the commission could only be realized in any other way by a decision of the courts adverse to the commission. A lawsuit will tie the matter up for years, however.

Originally every member of the council seemed to favor the proposed purchase, but last Monday certain councilmen began to talk of defeating it. Many have since devoted themselves to efforts to defeat the scheme.

Councilman Hitchens has aligned himself with the administration in favor of the plan. Hitchens said:

"City Solicitor Baker has already explained to the council at length the legal status of the matter. It is too complicated for me to express an off-hand opinion on.

"I don't see, however, why the use of the money for a mall in the group plan isn't for the benefit of the territory provided for in the fund. Every cent will be used within territory originally within the first seven wards of the city."

VIOLATED A LAW TO GET GOOD PIE

School Board Members Didn't
Remember Decision of
the City Solicitor.

Money to Pay Board Bills Can-
not be Taken From Pub-
lic Purse.

City Solicitor Baker stated yesterday that he had no idea whether or not it was legal for the members of the board of education to charge the cost of meals against the public funds of the board. It has developed that the taxpayers of Cleveland are paying heavy bills for meals eaten by members of the board of education.

"I shall not take any notice of the matter unless it is officially called to my attention," said Mr. Baker. "I am the legal adviser of the board of education. I have no business to interfere with what they may or may not do. It is not my business to investigate their actions.

"George Myers is the auditor for the board and if he wants my opinion on the legality of the expenditures for the purpose of purchasing lunches for

members of the board down town I will give it to him. Until my opinion is officially requested I have nothing to say."

The city solicitor, however, happens to be on record on the same question raised by the purchase of meals by school board members, the cost of which is paid by the taxpayers. The case in point deals with the waterworks department.

During the progress of the construction of the waterworks tunnel, city officials at various times made extended trips to the cribs and through the tunnel. They were performing official business and since their work involved many hours, often going far beyond meal time, Supt. Bemis of the waterworks department thought it would be a good idea to furnish them food.

When the first bill of this kind was presented to City Auditor Madigan he held it up. The city solicitor held that the expenditures were absolutely illegal and told Mr. Madigan not to pay such bills. Not since that time, and that was many years ago, has any public official attempted to purchase pie at the expense of the people, until the board of education members renewed the practice.

Under the new school code, however, Mr. Madigan is no longer auditor of the board of education. Clerk George Myers acts in that capacity. Myers approved the bills and they were paid.

DISCUSS CHICAGO PLANS.

Mayor Johnson and Others Talk
Over Situation in the
Illinois City.

Mayor Johnson struggled with the Chicago street railway problem long and hard yesterday. In consultation with him were A. B. Dupont, City Solicitor Baker and Frederic C. Howe. Mayor Dunne of Chicago was not here, having written Mayor Johnson Saturday that he would not come.

"I have not done much work," admitted the mayor last evening, "but there is nothing that I can discuss for publication. I shall not go to Chicago in the immediate future. I expect to go to the state convention Monday evening or Tuesday morning."

Late yesterday afternoon the mayor with his guests visited "Troutdale," the mayor's country villa.

POSTPONED UNTIL JULY 24.

Council Committees Did Not Consid-
er Case Property Deal Yesterday.

Council committees considering the proposition to purchase from the trustees of Case School of Applied Science all the down town Case property for the sum of \$1,900,000 postponed consideration of the proposition yesterday until Monday afternoon, July 24. This was upon the advice of City Solicitor Baker. Mr. Baker caused the announcement to be made that adjournment of the committees was desired so as to permit of the making of further inquiry into the value of the property, existing leases and other matters pertaining to the undertaking. The other matters seemed to be the paramount cause of postponement, but what they may be has not developed. It was also announced that there are some leases running until 1986.

MUST ASK FOR BIDS.

Solicitor Baker decided Monday that the city must advertise for bids for gasoline. The Standard Oil Co. recently put the price so low that other companies said they could not furnish gasoline. City officials said they expected the price would be raised if bids were asked for.

NO GLENVILLE BY JULY 24.

Final Details of Annexation Will be
Completed by That Time, City
Solicitor Thinks.

Annexation of Glenville to Cleveland will probably be completed about July 24. City Solicitor Baker expects the city to become a part of Cleveland at that time. "Their ordinance matures about that time," said he yesterday, "and in the meantime certified copies of the ordinances passed by the two cities will be filed with the secretary of the state and the county recorder.

"It will then only be necessary for the city auditor to go out to Glenville and take possession of records, books, papers, etc."

COUNCIL ONLY CAN ACT.

Health Officer Has No Power to Establish Ash Collection, Says Baker.

Health Officer Friedrich yesterday wrote the civic improvement committee of the Federation of Women's Clubs a reply to the suggestion of the committee that the board of health take steps to inaugurate a system of ash and refuse collection. The city council had refused the board of public service an appropriation for the purpose. Dr. Friedrich wrote the committee after a consultation with City Solicitor Baker.

The solicitor decided that the board of health had authority to expend money for such purposes only in cases of emergency and that a system of collection could not be established by the board under such a declaration. The health officer declared the ash collection system to be one of the greatest needs of the city and expressed gratification at the interest of the women. He promised to use all his influence with the council in an effort to secure an appropriation next January.

\$634,000 FOR INTEREST.

Sinking Fund Trustees Make Levy of 3 Mills for 1906—Library Levy Approved.

The members of the city tax commission met yesterday as a board of sinking fund trustees and made a levy of 3 mills for 1906. Of this levy 2 9-10 mills is for interest and 1-10 mill is for the sinking fund. Secretary Louis Devineau submitted figures showing that the total indebtedness of the city on July 1, 1905, was \$24,366,426. The sinking fund trustees decided to pay off \$45,000 of bridge bonds maturing in 1906, and \$20,000 of sanitary notes. Next year the board will have to pay \$634,000 interest on bonds. The board at its session yesterday decided to buy \$36,000 of 5 per cent. street improvement bonds.

The library board was granted its request for a tax levy of 8-10 of a mill at a joint meeting of the board and the tax commission. This is the same levy as last year and will give the board a total of approximately \$170,000. Of this amount \$20,000 must be placed in the sinking fund, leaving the board about \$150,000 for general library purposes during the year.

The question was raised as to whether the salary list in Cleveland was not larger than in Buffalo. Mr. Stafford explained that the library and reference departments in Buffalo are operated separately, and that figuring both together the salary list in Buffalo for the same work is larger than in this city. This explanation proved entirely satisfactory, and the request for 8-10 of a mill was granted without further debate.

At a later meeting of the board a communication was read from City Solicitor Baker to the effect that the library board, like the board of education, cannot be held for special paving taxes. Something like \$800 in paving taxes has been assessed against the board. It is now believed these charges will be rescinded. The board approved of furniture contracts for the Miles Park and Broadway branches.

STRONG MAN OF POLICE FORCE DOESN'T KNOW HIS STRENGTH.

PATROLMAN FECHNER LECTURED ON DANGER THAT LURKS IN HIS POWERFUL HANDS—LIFTED A WAGON LOADED WITH STONE.

Patrolman Gustave H. Fechner is known as the strong man of the Cleveland police force. It is said that Fechner does not know his strength, and because of this lack of knowledge he came very nearly losing his position on the force Tuesday. As it was, he was given a lecture on the danger of being big and strong and a policeman by Acting Mayor Lapp and Solicitor Baker.

Fechner was suspended several days ago for using undue violence in arresting Nathan Florman, an Ontario-st man, charged with soliciting trade on the sidewalks. His trial came up before Acting Mayor Lapp Tuesday afternoon. There were several witnesses, including the man who claims that he was roughly used by Fechner. Florman weighs a little more than 100 pounds. He testified that the giant officer grabbed him by the back of the neck and one arm and dragged him down the street. He said that his nose bled for three days after Fechner had arrested him, and that his arms were black and blue.

"Fechner, the great trouble with you is that you don't know how strong you are," said Solicitor Baker. "You get hold of some little fellow and almost crush him with your great hands before you know it. I don't think you mean to be cruel, but your strength is greater than you think it is, and every time you take hold of a man you almost

crush him. Why, only a short time ago, I am informed that you lifted a wagon load of stone."

"I did do that," replied Fechner, "but the whole thing didn't weigh



PATROLMAN FECHNER.

only a little over a half of a ton. That's the most I ever lifted at any one time."

Then Acting Mayor Lapp dismissed the charges against him.

"You'll have to watch yourself from this time on, or you may crush the life out of somebody with your great hands," was the parting advice given the giant officer by Lapp.

GLENVILLE SALOONS NOW THE PROBLEM

Solicitor Baker Wrestles With Question While the Liquor Men Open Establishments.

Citizens of Glenville with a thirst of over two years' standing have been wondering if annexation would mean emancipation from the restrictions of the Beal law. The village of Glenville has been "dry" because the citizens of the village voted that it should be dry. Now that Glenville is a part of Cleveland, the question naturally has arisen: "Is Glenville wet again?"

Saloon Men Make Ready.

Certain saloonkeepers, it is stated, have decided that the territory they reside in is "wet" since it is a part of

Cleveland. It is hinted that they are ready to back up their opinions by opening saloons at once without waiting to hear the opinion of City Solicitor Baker on the subject. More than that, the assertion has been made that M. H. Loveman would this morning open a saloon at No. 2471 St. Clair street, and that on Friday morning Philip Friedman and Adam Lum would follow Loveman's example by opening saloons, respectively, at Nos. 2817 and 2853 St. Clair street.

Baker Considers Problem.

The question of the legality of selling spirituous and fermented liquors or intoxicating drinks in Glenville already has been submitted to City Solicitor Baker, who has wrestled with and slept over the problem without having arrived at any conclusion. Mr. Baker stated last night that he had talked over the matter with the attorney for the Anti-Saloon League, and that he had given it serious consideration, but that he had not decided what was the legal aspect of the case. He said he expected to talk with Anti-Saloon League men again this morning, and intimated that a decision might be reached this afternoon.

GOOD CHEER AND LIGHT HEARTS

Advertising Men Left Golf
Links to Meet Around
Banquet Tables.

Speeches, Vaudeville and Giv-
ing Trophies Marked
Happy Evening.

Dining, wining and making merry, the American Golf Association of Advertising Interests closed its two days' golf tournament at the Euclid club by a banquet at The Hollenden last night. The hosts of the evening were the Cleveland Ad club, the Cleveland Plain Dealer, the Cleveland Leader, the Press and the World-News.

Fresh from the links, tanned and sunburned from their constant exposure to the sun, the advertising men came to the banquet board to glorify Cleveland, and the Euclid club to congratulate the fortunate winners of the trophies and to condole with the losers. Cheers for the city and for the club and extempore songs composed to extol the merits and fancied failings of the members of the association began with the commencement of the banquet and ended with its closing.

Interspersed through the evening, vaudeville "stunts" by local amateurs prominent in business and society, a few happy speeches and snatches of popular songs kept confusion from waning and contributed their aid to healthy digestion. The climax of the evening came with the awarding of the thirty trophies and sixteen medals given for excellence on the links during the tournament.

The advertising interests from all sections of the country were represented, and more than 150 members of the association and Cleveland advertising men sat about the tables in the assembly hall. The large doors to the rear of the hall were thrown open and the wives and women friends of the members were grouped to watch the festivities and lend their ideal, if not actual presence, among the diners.

On a large pedestal at one side of the hall were the trophies arranged for inspection. Costly and beautiful works of the jeweler's art, the sight of them lent an impetus to the enthusiasm that seemed to have been reserved during the stay of the golfers in the city until last night.

The entertainment feature of the banquet had been prepared by a committee of the Cleveland advertising men and W. S. Gilbert of the Cleveland Leader, president of the Ad club, presided over this part of the evening. A short formal program was begun by City Solicitor Newton D. Baker, who was introduced by Mr. Gilbert to welcome the visitors to the city and assure them the pleasure Cleveland took in entertaining them.

Mr. Baker began by a story concerning John D. Rockefeller and President Harper of the University of Chicago. The truth of the story he would not vouch for. "It seems," said Mr. Baker,

"that when President Harper was convalescing from his recent operation, he spent several days with Mr. Rockefeller at the country home of the oil man near New York. Mr. Rockefeller insisted on his visitor learning to play golf. While wandering about the links one day, President Harper asked his host, 'How do you manage to sustain your interest in golf? Do you confine your play to contests with your family or do you invite friends to join you on the links?' 'I never have visitors to play with me. Competition worries me very much,' was the rejoinder."

"There is a tradition that the seventh son of a seventh son is a lucky individual," continued Mr. Baker. "Cleveland is the seventh city in the United States and why should not some luck attach to its position as well?" He referred to the favorable situation of Cleveland relating to the iron, coal and oil fields and expressed the opinion that the city would ever hold its own in the competition with the world. He called it a model city; model in its natural surroundings, its sanitary conditions, its general moral tone and its police force and he bade the visitors welcome in behalf of the city, the Euclid club and the Ad club and newspapers.

The response to Mr. Baker was made by Frank Presbrey, president of the association. He thanked Mr. Baker and the interests he represented for the welcome, and said that the association had enjoyed every minute of its stay in the city. "You must have conspired with nature to give us bright sunshine and perfect weather every day of our stay," he said. "We have never been entertained on more beautiful links, in a more beautiful clubhouse or in a more hospitable way."

DEEP INTEREST IN NEW VOTERS

Both Parties Would Like to
Benefit by Glenville
Annexation.

Next Meeting of the City
Council Promises to
be Exciting.

Members of the city council are preparing for the meeting to be held Monday evening, the first in three weeks, and it is expected that legislation will be thrown into the hopper by armfuls.

A great deal has accumulated during the vacation period and the meeting will undoubtedly be lively. In fact there are indications that some pieces of legislation rather surprising in nature will be presented.

A subject that will be of much interest is the matter of arranging for the newly annexed territory, now within the boundaries of Glenville. That section of the county will become a part of Cleveland Monday.

City Solicitors Baker and White of the two cities at a conference held yesterday arranged for the completion of annexation on that date. White left with Baker a number of the neces-

sary papers. Baker will draw some additional ones and on Monday copies of the ordinances passed by the city councils will be filed with the secretary of state and county recorder, thereby meeting the requirements of the state law. The councilmanic interest, however, devolves around the question of how Glenville is to be taken care of politically.

The agreement fixing terms and conditions of annexation provide that Glenville, with two precincts of ward twenty-six shall be placed in a new and separate ward. City Solicitor Baker doubts the legality of this clause and is of the opinion that it is not enforceable. However, the question has not been formally presented to him yet.

"I have heard nothing of the matter," said he yesterday. "It is something for the council to decide. No one has asked that I take any action."

The administration has been declared to be against the provision declaring in favor of a new ward. Mayor Johnson has never expressed himself on the subject and is probably not as deeply interested in the matter as are the Republicans.

The twenty-sixth ward as now constituted is strongly Republican. The two precincts which Glenvillites desire added to their territory for the making of a new ward are the most strongly Republican of any in the ward. In fact the strength of H. D. Wright, the present incumbent, who is seeking re-nomination, lies largely in these precincts. Wright is an organization man and is supported by the powers that be. The Republicans therefore are no more anxious to disturb existing conditions than are the Democrats. The probabilities are, therefore, that the new territory will be taken care of by adding it to either ward twenty-six or wards twenty-four and twenty-six, with the chances favoring the former proposition.

Mayor Johnson's vetoes of the street railway ordinances passed by the council in June will also come up for action. The Republican will undoubtedly attempt to pass both ordinances over the veto, but there is not the slightest probability of their attempt being successful.

ATTORNEYS CAME, TOO.

Justice, Alone in Morning, Had
Plenty of Legal Company Later—
Continuance Refused.

Justice S. C. Fellows and Constable A. L. Drew, who were recently arrested on the charge of extortion, made an effort to have their cases continued until fall in police court yesterday morning, but were frustrated by City Solicitor Newton D. Baker and Acting Judge Wilkin.

Fellows appeared in court about 11 o'clock without any of the six attorneys who represented him when arraigned for the first time several weeks ago. He asked for a continuance until his attorney, Walter D. Meals, returned from Europe in September.

"Where are your other attorneys?" asked Assistant Prosecutor Levine.

"Oh, I've discharged them," said Fellows.

City Solicitor Baker demanded that the case be tried at once and Acting Judge Wilkin ordered Fellows to appear in court at the afternoon session.

When court opened at 1:30 o'clock yesterday afternoon, Fellows and Drew were on hand. All the attorneys that represented them when first arraigned were on hand too, with the exception of Walter D. Meals.

"I thought you had discharged your attorneys," remarked Prosecutor Levine.

GLENVILLE VERY WET.

Solicitor Baker Decides That With Annexation the Beal Law is Not Operative--Police Instructed to Make No Arrests.

Glenville's thirsty were able to quench their thirst for strong drink in saloons near their homes for the first time in many moons Wednesday morning. At 4 p. m. Tuesday the village became a part of Cleveland. At an early hour Wednesday morning citizens awoke to find at least three saloons open for business.

P. Friedman, of 2817 St. Clair-st., had everything ready for the early trade and before 6 a. m. had donned his white apron, and was handing wet goods over the bar at a rate never before witnessed in Glenville. Near the race track J. O'Brien and M. Loveman were also doing a rushing business.

There was much activity in other parts of the village among former saloon men. Soft drink signs

Were Being Rubbed Off windows. Restaurant furniture was being relegated to rear rooms and warehouses to make room for bar fixtures. It is expected that by Saturday at least a dozen drinking places will be doing business.

A large number of agents for breweries, distilleries and wine houses found their way to the village Wednesday. They came early, and some of them boasted of doing good business.

"It looks like old times," said Friedman, "but I don't know how long it will last before the temperance people will be after us. I am ready to be 'pinched' any time. If we are going to be arrested it might as well come now as any other time. The saloon men are prepared to fight any effort of the temperance people to put us out of business."

There was nothing doing in the soft drink line in the saloons which began business Wednesday. The saloon men thought customers were joking when they asked for ginger ale or pop. "No pop or other soft drinks go today; people been drinking that kind of stuff too long out this way," they explained.

Glenville's saloons opened Wednesday morning because all liquor dealers in the newly annexed territory had been quietly tipped off that

no arrests would be made.

At the request of Mayor Tom, City Solicitor Baker looked up the law and arrived at what he called a tentative opinion to the effect that the Beal law had no effect in Glenville after that territory was absorbed by Cleveland.

This opinion was communicated to Chief of Police Kohler, who was instructed not to arrest any saloon-keeper who opened up Wednesday morning.

Solicitor Baker said Wednesday: "This opinion is only tentative, but unless a more thorough examination of the law causes me to change my mind, I will stand upon the assumption that the Beal law lost effect in the Glenville territory as soon as the annexation formalities were completed."

It is a notable circumstance of the absorption that the city officials hold all departments of Glenville to have become integral parts of Cleveland simultaneously with the formal annexation, with the exception of the police and fire departments. Either the policemen or firemen who served under the Glenville administration are to be thrown out of their places entirely, or they are to be continued under a compromise, which, it is understood Mayor Tom would like to bring about.

NEW ORDINANCE FOR ACROSS-TOWN ROAD

Substitute for Felton Measure
is Devised by Mayor and
Railway Officials.

EXACT TERMS SECRET

Transfer Restrictions Inserted by
Mr. Johnson—Will Be Sub-

mitted to Council.

A new ordinance providing for a cross-town street railway on Doan street and Woodland Hills avenue was drafted yesterday by City Solicitor Baker and Secretary Davies, of the Cleveland Electric Railway Company.

The terms were agreed upon in the morning at a conference held in the city hall between Mayor Johnson and President Andrews. The mayor was satisfied that the city's rights would be safeguarded in the ordinance, which is intended to supersede the Felton cross-town ordinance.

Exact Terms Secret.

The exact terms of the ordinance were not made public last night. It is known that Mayor Johnson imposed certain restrictions upon the issuance of transfers to connecting lines. The franchise of the Superior street line was extended by the ordinance to 1910. The life of the franchise of the Broadway line was not extended. No grant in Quincy street was made.

If the courts decide that the Forest City Street Railway Company has rights in Quincy street the new cross-town line will run from Doan street to Woodland Hills avenue by a private right of way. If the courts decide in favor of the Cleveland Electric Railway Company that company will then have rights in Quincy street. It is believed that no provision for transfers is made in the new ordinance, but that an understanding was arrived at by which transfers will be given to and received from all connecting lines.

Conference Held.

The conference began about 10 o'clock. President Andrews and Secretary Davies, representing the street railway company, and Mayor Johnson and City Solicitor Baker, representing the city, were present. Before noon a rough draft of an ordinance which was satisfactory to both sides had been made. The work of drafting the formal ordinance was immediately taken up by Mr. Baker and Mr. Davies. Later in the afternoon, Mayor Johnson considered it with Mr. Baker. Some changes were suggested, and then the mayor and Mr. Baker said that they were satisfied with the ordinance.

The fact that the slight changes made had not been submitted to President Andrews and Secretary Davies was urged as an excuse for not making the ordinance public last night. Mr. Baker stated that he would see Mr. Davies and consider these points with him this morning.

The ordinance, if it finally has the approval of the representatives of the street railway and of the city, will be submitted to the council as a substitute for the Felton ordinance next Monday night. The council, if it felt disposed, could suspend the rules and pass it at once.

NO POPULAR VOTE FOR DEMOCRATS

Regarded as Certain That
Ticket Will be Named at
Convention.

Committees of Both Parties
Will Begin Business
Next Week.

Both the Democratic and Republican executive committees will meet next week, the former to make the preliminary arrangements for a convention to nominate both the city and county ticket and the latter to complete the arrangements for the primaries to be held Sept. 7.

Although the committee has not met since its formation it is regarded as a settled thing that the Democrats will nominate by convention on either the second or third Saturday in September.

The talk of the Anti-Johnson Democrats, some of them demanding the nomination of the ticket by popular vote, will have little or no weight with the committee.

The crushing defeat of the Anti-Johnsonites in their attempts to gain recognition at the state convention did not place them in a favorable position for making any effective contest as far as the nominations are concerned.

Mayor Johnson, chairman of the committee, is emphatically in favor of the convention plan for the nomination of the entire ticket, both county and city, save the nomination for the councilmen from the wards. Others on the committee, who may not feel so strongly for the convention plan, say that it will be the best plan this year because of the recognized fact that two-thirds of the ticket will be renominations.

It is regarded as certain that the present board of public service, W. J. Springborn, Daniel Leslie and H. R. Cooley, will be renominated. Newton D. Baker will be renamed as the candidate for city solicitor and Henry D. Coffinberry for city treasurer, in all probability. J. P. Madigan will be nominated for county treasurer if he will accept the nomination which friends say is certain. As far as Mayor Johnson is concerned the three Democratic councilmen at large in the council will be renamed as follows: P. J. McKenna, Anton Biesinger and J. R. Krause. So far little opposition to the program regarding the nominations for council at large has developed.

No one else is thought of for clerk of the courts except Charles P. Salen, the present incumbent of the office. The question of a county commissioner is by no means settled. There are some of the administration lieutenants who are rather lukewarm when it comes to discussing the renomination of Richard McKenzie. John Vevera is seeking the nomination.

The books for the registration of candidates will open not later than Aug. 15, and continue open for at least ten days.

CHANGE MADE IN THE RECORD

Charges in One of Justice Fellows' Cases Cut Down Since
Docket Was Last in Court.

Legal Wrangling Makes Extortion Hearing Drag at
Snail's Pace.

There were two things demonstrated at yesterday's session of the trial of Justice S. C. Fellows and Constable A. L. Drew, jointly charged with extortion, before Police Judge Whelan. One of these things was that there is some ground for the prevailing opinion that business in a justice's court sometimes takes a peculiar turn, and the other was that the attorneys for the defendants are going to take advantage of every technicality, no matter how slight it may be, and try their very best to have excluded as much testimony as possible, in their efforts to save their clients.

The trial was commenced Thursday afternoon, but there were so many objections raised by the defense and the arguments over alleged points of law were so long drawn out, that little progress was made, and the same thing may be said of yesterday's session.

Few questions put by City Solicitor Baker or Police Prosecutor Levine, who are conducting the case for the state, were permitted to go unchallenged, and it was a noticeable fact that a very large number of the objections were overruled.

The charge in this case is that exorbitant fees were charged by both the justice and the constable in the case of Bennet & Fish vs W. S. Brintnall, which case came up in Justice Fellows' court early in June.

Henry Antesberger, who was the clerk in Justice Fellows' court for a time, was the chief witness yesterday. He testified as to the making of the record of the case and charging up the fees, at the direction of Justice Fellows, and charging some fees from returns made by Constable Drew.

The sensation came in the introduction of the record of the justice's court in the case of Mintz vs. Katz. The state sought to introduce this record in order to show that exorbitant charges had been made in other cases than the Brintnall case, and the defense claimed that it had no right so to do. There was a long argument, in which citations galore were made, and the objection of the defense was finally overruled.

The witness then proceeded to read the record of the charges made in that case, and the state was greatly surprised to find that the record had been changed since the same record was in evidence in the case against David Zinner, tried a short time ago.

On questioning Antesberger it was learned that he had made the changes, cutting down the constable's fees for mileage very materially, and he said that he made the changes at the direction of Justice Fellows.

In that case David Zinner was the constable employed, and the witness stated that, after the arrest of Zinner, Fellows called in Zinner and told him he thought that the charges for mileage were too large and must be changed. Fellows then ordered his clerk to make the changes, which amounted to \$1.05, said the witness, and it was done.

W. S. Brintnall, who was the defendant in the case where the alleged extortion was practiced, was on the witness stand for a short time, and he said that Constable Drew made him pay a fee of \$3.50 for a keeper, who was at his place of business from about 11 o'clock one forenoon until about 5 o'clock in the evening of the same day. He also said that he spoke to Drew about an itemized statement of the costs in the case, not being satisfied with the alleged itemized statement that had been furnished him, and that Drew became very angry and told him that if he insisted that it would cost him a whole lot more than it had already. However, he asked Fellows about it and got another statement. The judgment against him and the costs amounted to something over \$30, and he testified that he paid the \$3.50, keeper's fee, and later paid \$2 and then \$12, and after the present case was begun paid some more.

Before his direct examination was concluded the court was adjourned until 10 o'clock Tuesday morning, when the case will be again taken up.

ENTERS RACE FOR CITY SOLICITOR

Judge Shallenberger Decides
He Doesn't Want to Go
to State Senate.

Herman C. Baehr is Being Told
He Must Run for
Mayor.

State Senator J. H. Shallenberger will not be a candidate to succeed himself in the senate. Instead he aspires to defeat Newton D. Baker for the position of city solicitor. When Judge Shallenberger entered Republican headquarters late yesterday afternoon Secretary Rodway reached for his record expecting him to enter as a legislative candidate.

Instead Shallenberger announced that he had decided to enter as a candidate for city solicitor. The decision of the state senator to go upon the city and not the legislative ticket was a complete surprise to the party leaders. They had no intimation of the change of front until Shallenberger came to headquarters.

It is now thought extremely doubtful whether M. P. Mooney will enter the lists as a candidate for city solicitor. Before leaving upon his vacation a week ago Mr. Mooney informed his political friends that under no circumstances would he make a contest for the nomination.

NEW WARD PLAN CUE FOR FIGHT

Hitchens Would Make Twenty-Seventh of Glenville and F and I of Twenty-Sixth.

Party Members Don't Read Law the Same Way—Can't Do It, Says Baker.

Councilman Hitchens, Republican leader in the city council, yesterday announced that he would introduce an ordinance at the council meeting Monday providing for the establishment of a twenty-seventh ward within the city. Hitchens proposes to do this by placing the recently annexed territory of Glenville together with precincts F and I of the twenty-sixth in the new ward. Glenville asked, in agreeing to annexation, that some such scheme as this be carried out.

But there will undoubtedly be a bitter fight. That section of the city is strongly Republican. This territory, with the addition of two strong Republican precincts from the twenty-sixth ward, would make another strong Republican ward and possibly give the Republicans a working majority in the new council.

Hitchens says that by taking the two precincts from the twenty-sixth the population of the two wards will be approximately the same. The position of the administration is not definitely known, but City Solicitor Baker is of the opinion that a new ward cannot be legally established at this time. On the point of redistricting a city Baker says that the new code made possible but three things. These were: First, redistricting prior to Jan. 1, 1903, which has already been done; second, the empowering and directing of the council after each recurring federal census again to redistrict the city, which he maintains cannot be done, of course, until after the federal census of 1910; and third, a provision that the city be redistricted whenever there is annexed territory containing by the last federal census such number of inhabitants as will entitle the city to additional member or members of the council.

"This, it will be observed," says Baker emphatically, "does not empower the council to redistrict the city when, by growth of population from a variety of causes, it is entitled to an additional councilman, but only when territory annexed contains a sufficient number of inhabitants to entitle the city to another member of the council." The number of inhabitants in Cleveland wards would be 15,000. Glenville does not contain nearly this number.

The Republicans, on the other hand, will maintain that the intent of the code is to permit an additional ward whenever territory is annexed giving the city an additional 15,000 population. They will claim that this population has been secured when the annexation of the several territories taken in within the last two years is considered.

Mayor Johnson undoubtedly holds the whip hand on the situation, since he can veto any ordinance that is passed by the council and a majority sufficient to pass over veto is not probable of production by the present council, even though anti-administration Democrats join with the Republicans.

JUSTICES WILL HAVE NO WORK.

**BAKER AND MUNY HAVE A
PLAN TO ESTABLISH
CITY COURTS.**

**Will Ask the Legislature to Act—
All Justice Courts to Be In-
vestigated.**

If the legislature will take up the plans of City Solicitor Baker, which it will be asked to do, justices of the peace in cities of Cleveland's class will have nothing to do, and will be virtually forced out of business.

The numerous complaints from litigants that some Cleveland justices charge illegal fees have caused Solicitor Baker and officials of the Cleveland Municipal association to look for a remedy. Baker is of the opinion that he has found it, and the legislature will probably be asked to pass the necessary laws.

"The plan I have in mind," said Solicitor Baker Wednesday, "is the enactment of a law creating two courts to be known as city courts. These courts would be closely connected with the common pleas court,

Only Less Dignified,

and only suits where \$500 or less is involved would come under the jurisdiction of the judges. Such a law would simply mean that the civil courts be divided just as the criminal courts are at present. The law would provide a substantial salary for the judges and only lawyers would be eligible for the judgeships.

"All the court officials would be on salary and would be required to work under orders from the clerk of the common pleas court. A provision would be made that all collection of costs be a matter of city concern. The law giving country justices jurisdiction in cities should be repealed. Two city court judges

Would Be Sufficient

for Cleveland."

Baker thinks that men chosen as judges of the city courts would be of such character the work of the justices would drop off to such an extent that they would be forced out of business in a few years.

Secretary F. E. Stevens, of the Municipal association, says many justices are under investigation—just how many he refused to state. He says, however, that there are few justices in Cleveland that the league has not heard complaints concerning their alleged charges of illegal fees.

"We will work in conjunction with the city law department until all justices suspected of charging illegal fees have had their books investigated.

"The police court seems to be the only place where such cases can be investigated. The association put the matter

Up to Prosecutor Keeler two years ago, BUT THE COUNTY AUTHORITIES DO NOT APPEAR INTERESTED IN THE MATTER.

"I favor the scheme of Solicitor Baker to have the legislature pass a law creating city courts, which could take care of the business now taken before justices. The system is bad, but the men who are elected as justices are worse—many of them.

"I have not so much against the system as the men. Political hacks who have no qualifications whatever for the office are elected justices simply because the powers that be think that they owe them political debts. There are no other places for these men so they elect them justices of the peace."

BAKER HAS BEEN TOO BUSY.

**No Suit Instituted to Determine
Sinking Fund Status.**

City Solicitor Newton D. Baker stated yesterday that he had not yet considered the matter of instituting a friendly suit to determine the powers of members of the city council to vote on the question of approving an expenditure of \$1,900,000 from the city sinking fund for the purpose of purchasing the Case estate property. Baker said that he had been too busy with other matters.

The action of certain councilmen in demanding the institution of the suit seems to mean untold delay if not the death of the entire plan at the present time.

TO REPLACE JUSTICES.

**City Solicitor Thinks Municipal
Courts Should be Established
for Minor Suits.**

City Solicitor Baker yesterday stated that in place of justice courts he would have the legislature pass a law providing for the establishment of municipal courts, probably two, to be run in conjunction with the common pleas court and in which suits of \$500 or less would be tried.

The law would provide substantial salaries for the judges and only lawyers would be permitted to serve. The judges would work under the direction of the clerk of common pleas court and all attaches would be under salaries.

The Municipal association likes the idea.

Phi Gamma Delta

Ekklesia LVII

Cataract-International Hotels

NIAGARA FALLS, NEW YORK

JULY TWENTY-SEVENTH

1905

Toasts

A

NEWTON D. BAKER

Toastmaster

1 JOHN E. BRUCE

2 HENRY WEBB JOHNSON

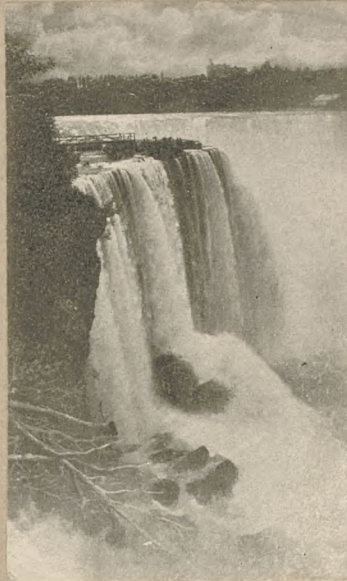
3 ROBERT J. TRACEWELL

4 EDWARD D. SHURTER

5 STUART EAGLESON

6 THOMAS L. POGUE

7 JOHN W. CLARK



"FRAT" MEN HONOR BAKER.

City Solicitor National President of the Phi Gamma Deltas.

At the recent convention of the Phi Gamma Delta fraternity at Niagara Falls, City Solicitor Newton D. Baker was honored by his fellow fraternity men by being elected to the position of national president.

The fraternity is one of the strongest Greek letter societies and to hold the



NEWTON D. BAKER.

position of president is considered a high distinction.

The Phi Gamma Delta fraternity has a strong and active chapter at Adelbert college in this city. Mr. Baker has always taken a great deal of interest in it and has been one of its strongest supporters.

BURGLAR NOT SO BAD, SAYS BAKER

Arraigns All Men Who Take Advantage of the Law for Their Own Gain.

Cases Against Justice and Constable Will Go to the Jury Today.

City Solicitor Newton D. Baker did not mince words yesterday addressing the jury which is trying Justice of the Peace Fellows and Constable Al Drew, jointly charged with extortion.

"We are trying this case before you, gentlemen," he said in part "to protect poor people, poor widows and orphans, who struggle along and, sad to say contract debts which they cannot always pay. We are trying this case to protect them against those who take advantage of the powers vested in them to take from the poor and down trodden of their last penny and their last possession.

"It is to protect the poor woman's sewing machine, which she uses to drive the hungry wolf away from the door that you are assembled here in court today. Burglars and highwaymen prowl about the streets and prey on citizens. But they are always running their chances of being captured by the bluecoated and brass buttoned boys who patrol the streets. They do not hurt organized society, they do not threaten it.

"But the men who use the majesty of the law to further their own ends and not the ends of justice are worse than the hold up man and the burglar. They carry on their work with impunity. They do not run their chances of being caught like the burglar or hold up men. They are officers of the law and hide their crimes behind their badges.

"They strike at the vitals of society. Where there is no justice, there is no organized society.

"These men hand a bill of costs for a large sum to the unfortunate man who is caught in their net, and on their books, which is a record for the public, they set down a much smaller sum. That is why you are here today, gentlemen."

Attorney White made a short address in behalf of the defendants.

The jury will be charged this morning by Judge Whelan. Then they will be locked up until they arrive at a verdict.

LIKENS J. P. TRIALS TO CHADWICK CASE

Solicitor Baker Says Fellows is
Equally Guilty With Drew
of Extortion.

ARGUMENTS ARE ENDED

Judge Will Give Charge to Jury
To-day and Verdict Will
Soon be Rendered.

Mrs. Cassie L. Chadwick's case in the federal courts was cited as a parallel to that of Justice S. C. Fellows and Special Constable A. L. Drew in police court yesterday afternoon by City Solicitor Newton D. Baker.

Closing Argument.

Mr. Baker was at the time making the closing argument to the court and jury. Attorney White, for Fellows, had just concluded, saying that as Fellows did not benefit directly by any higher fees that he had charged, but that they went to the county and to Constable Drew, he was not guilty of extortion under the interpretation of the law given by various courts. In opening his argument Mr. Baker said:

"Mrs. Chadwick's case in the federal court is a parallel to this one. Judge Tayler held that by conspiring with bank officials she was guilty of wrecking banks, though Mrs. Chadwick's attorneys claimed that only one connected with a bank could be technically guilty of such an act. In this case here we charge that Fellows conspired with Drew, by permitting the making out of excessive cost bills, and is therefore guilty with Drew of extortion.

Minimize Importance.

"The attorneys for the defense minimize the importance of this case," continued Mr. Baker. "To them it is merely a matter of five or ten cents on these cost bills; it is only a matter between the complainant and their two clients. But I say that the foundation of society is based upon what these men are supposed to represent—justice. It is for the poor people that there are justice courts, hence a matter of five or ten cents is of vital importance."

At 9:30 o'clock this morning Judge Whelan will deliver the charge to the jury. It is not thought probable that the jury will remain out long.

PLENTY OF TALENT.

Prominent Democrats to Participate in Sycamore Club Opening.

City Solicitor Baker, President Springborn of the board of public service; County Clerk Salen, Assistant Police Prosecutor S. V. McMahon and P. L. Leighley are among those who are expected to help open the campaign of the Sycamore club, the South Side Democratic organization, at a smoker to be given in the club's rooms, Pearl street, near Clark avenue, tomorrow evening.

The club has been planning the event for some time and South Side Democrats, particularly those who are members of the club, expect a rousing meeting.

HITCHENS FIRST TO HAVE HONOR

West Side Cross Town Ordinance to be Drawn in
His Name.

Rapid Progress Being Made
With the New Line on
Doan Street.

City Solicitor Baker yesterday announced that he had refused to draw a cross town line ordinance for Councilman F. G. Nickels of the fourth ward. Councilman Edmund Hitchens had filed a similar request first and Baker will draw an ordinance in the name of Hitchens. Nickels, however, may move on his own initiative, although this is improbable. Hitchens introduced a Gordon avenue cross town line ordinance into the council several weeks ago.

Hitchens will confer with Baker tomorrow. The legal work of the city solicitor will probably consist in merely drawing an amendment to the Hitchens original ordinance. The plan, according to Baker's idea, is to amend the original ordinance so as to make it conform to the Woodland Hills avenue measure. Baker expects to have the amendment ready for presentation to the council tomorrow evening.

Work on the building of the new Woodland Hills avenue line is progressing with good speed. Most of the work is being done on Doan street and city officials expect to see cars operated from the lake shore to Quincy street on Doan within sixty days.

Chief Engineer Clark of the street railway company yesterday submitted to the public service board drawings of all special work, such as curves, cross-overs, etc., which it desires to put in at Doan and Quincy streets and at Woodland Hills avenue and Miles avenue, Harvard street, Union street and Kinsman street. The plans will be approved by the board.

Clark also requested the city paving department to designate the kind of paving material which the company should use in paving the sixteen-foot strip on all the right of way where no city paving is being done. Medina block stone is to be used. Brick will be used where paving operations are now under way. The balance of the street may not be paved for a number of years and the city officials believe that Medina block stone can more easily be used than other on such territory.

No Ruling on Glenville Saloons.

City Solicitor Baker left the city yesterday for a vacation trip of two days and no final decision concerning the liquor question in that section of the city formerly in Glenville will be given meantime. Baker has given a tentative decision to the effect that the saloons may run. The saloons were operating in full blast yesterday.

FELLOWS CASE TO THE JURY.

The cases of Justice S. C. Fellows and Constable Albert L. Drew went to the jury in police court Saturday. They are charged with extortion in having charged excess fees in the sum of \$6.61. The judge's charge was merely a summing up of the evidence.

"Because of the small amount involved, I fear the jury will recommend leniency," said Solicitor Baker.

FOUND GUILTY.

Justice Fellows and Constable Drew were found guilty of extortion in police court Saturday.

A motion for a new trial was made and argument set for Monday. The motion is based on alleged irregularities in the conduct of the trial and misconduct by the jury.

The alleged irregularities were not specified, neither was the nature of the jurors' misconduct as charged by the attorney for the two defendants. These will be brought out at Monday's argument.

MAYOR'S NAME CHEERED.

The Sycamore Club Opens the Campaign on the South Side.

The Sycamore club, Democratic, opened the campaign on the South Side last night with a large meeting in its club-rooms at McDonald's hall at the corner of Clark avenue and Pearl street.

Lithographs of Mayor Johnson were the conspicuous feature of the decorations and his name was cheered when it was mentioned in connection with the prophecy that he would sweep the city for the third successive municipal campaign.

Newton D. Baker was the principal speaker. He expressed the belief that the Democrats will have all of the best of the campaign argument in the coming contest. Other speakers were Assistant Police Prosecutor S. V. McMahon, County Clerk C. P. Salen, Charles Selzer and P. L. Leighley, who is a candidate for county prosecutor.

CITY OFFICIALS RIDICULE THE CLAIM THAT THERE WAS CORRUPTION IN BELT LINE LEGISLATION.

Howes Claims the Injunction Was Asked for Himself Alone—Mayor Tom Laughed.

Vice President Stevenson, of the Lake Shore, in the absence of higher officials, denied Wednesday that the Vanderbilts were back of the belt line, says a "Press" special from New York.

City officials Wednesday ridiculed the charges made in the petition of Tuesday asking for an injunction stopping the publication of the ordinance granting rights to the proposed belt line railway. Those back of the petition insist that they are acting for themselves and not for any corporation seeking to oppose the belt line project.

"I said at the start that the railroads might be behind the belt line project," Engineer Carter said. "I don't know that they are, but

READY FOR LEGAL FIGHT.

W. R. Hopkins and City Solicitor Baker conferred Wednesday about the suit. They discussed what they would do at the hearing in common pleas court Thursday.

"We will let the other side present its case," said Hopkins. "If proof is needed then we shall be ready."

even so, what possible harm can come from it? The project is one of incalculable benefit to the city. The franchise was granted under terms, more favorable than which we could not reasonably ask. There is no loophole anywhere that can result in the least harm to Cleveland, no matter who or what is behind the scheme.

"I scanned that franchise ordinance pretty closely. It provides against grade crossings at every intersection, and there is not another safeguard that would protect the city that was not inserted in the ordinance. I did not see the slightest sign of conspiracy or corruption and I imagine that no city officer concerned has any misgivings."

City Solicitor Baker said he wouldn't make a statement because he would be called upon to try the case.

"I haven't given the whole matter three minutes of scattered thought since I first heard about it," he declared. "When I told the mayor that an injunction would be asked on the grounds that the franchise had been obtained by corruption, THE MAYOR BURST OUT LAUGHING HEARTILY."

Would Not Accept a Temporary Restraining Order in Belt Line Case--Denied Cause for Action.

The injunction suit brought against the city to block the franchise granted by the council to the belt line railway was placed on hearing in Judge Schwan's court Thursday morning. The judge suggested that a temporary injunction be allowed, as he did not have the time to give the matter an extended hearing Thursday. This was satisfactory to the attorneys seeking the injunction, who wanted a date set for a final hearing on a permanent injunction. Solicitor Baker, for the city, and S. H. Tolles, attorney for the belt line, however, opposed a temporary injunction and wanted the case disposed of at once.

"We claim there is no cause for action and object to any restraining order," said Baker.

The judge said he could decide on the application for injunction, but

the attorneys requested a brief hearing, which was allowed.

Alfred Howes, the petitioner for the injunction, did not appear in court. His case was represented by Attys. Alonzo Snyder, former Judge E. J. Blandin, T. H. Hogsett and Jas. Ford. Neither the city nor the belt line filed an answer to the charges that the belt line project is simply a scheme of four Vanderbilt lines to get a four-track road through the city, that the passage of the ordinance was secured through corruption, and that the promoters, W. R. Hopkins and M. A. Fanning, were to be paid \$2,500,000 for the franchise. The only answer filed was by the city, to the effect that the money for the payment of the publication of the franchise ordinance had been paid to the city.

A brief argument in behalf of the injunction was made by Alonzo Snyder. He confined himself almost entirely to the legal questions involved. Snyder was followed by S. H. Tolles, representing the belt line.

WILL PAY FOR WATER TROUGHS.

Money, However, Won't Come From Waterworks Contingent Fund.

City Auditor Madigan yesterday refused to approve the payment of \$1,500 out of the water wars contingent fund for watering troughs that are being set about the city.

The ordinance authorizing them provided that the money should be expended from this fund. Under a ruling of the state auditor money cannot be paid out of this fund, but the council by a two-thirds vote must appropriate it to some other fund, from which it can then be paid.

City Solicitor Baker said it would be best not to raise the question at the present time and the payment will be made from some other fund.

BAKER HOLDS UP HIS O. K.

Won't Pass on Franchise Ordinances Until Committee Acts.

City Solicitor Baker yesterday returned to City Clerk Witt the three street railway ordinances introduced into the council at the last meeting with the announcement that he would not pass upon them until they had been heard by the committee on street railways.

The ordinances are one by Pears to renew the Central avenue grant to the Cleveland Electric Railway Co., the ordinance by Nickels for a crosstown line on Gordon avenue and an ordinance of similar purpose by Hitchens.

A meeting of the committee has not yet been called.

CITY MAKES ITS DENIAL.

Answer is Filed to Belt Line Injunction Petition in Common Pleas Court.

Through City Solicitor Baker, the city yesterday filed an answer in common pleas court to the suit by Alfred Howes to enjoin the publication of the ordinance granting the Cleveland Short Line railway a franchise through the city.

The answer, after an admission of the passage of the ordinance, is a general denial. Some of the allegations of Howes' petition are denied because "of want of knowledge and information thereof."

The latter allegations charge that the ordinance was passed by means of corruption, that the belt line is only a four-track freight road through the city and that M. A. Fanning and W. R. Hopkins are to receive \$2,500,000 from the Vanderbilt lines for procuring the franchise.

FORMER SUBURB CAN'T BE NO. 27

**Baker Says Erection of Glen-
ville Into Separate Ward
Would be Illegal.**

**Drafts Substitute Joining It
to Twenty-Fourth and
Twenty-Sixth.**

City Solicitor Baker yesterday formally passed upon the Hitchens ordinance, introduced into the council on Aug. 14, to change the boundaries of ward 26 and incorporate part of the territory now in that ward with the annexed territory of Glenville into a new ward to be known as No. 27.

Baker says that the plan, as proposed in the ordinance, is absolutely illegal, and presented with the opinion a new ordinance providing for attaching the annexed territory to wards 24 and 26.

In his opinion on the Hitchens ordinance Baker says:

"The only provision of the law in Ohio authorizing the establishment of wards and ward boundaries is contained in section 117 of the municipal code; that section provides that after the original sub-division of the city into wards, subsequent redistricting shall be made after each recurring federal census, with the further proviso that a city shall also be redistricted whenever there is annexed thereto, any territory containing by the last federal census, such number of inhabitants as will entitle the city to an additional member or members of council.

"It is conceded that the territory recently annexed did not by the last federal census contain such number of inhabitants as would entitle the city of Cleveland to an additional member of council. There being no other provision for a redistricting I am of opinion that it was the legislative intent with a view to prevent frequent redistricting for political purposes, to limit the power of the council in that behalf to the instances set forth in the statute which I have quoted, and I am therefore of opinion that the present ordinance could not lawfully be passed.

"For the reasons outlined above I have indorsed the back of the ordinance in question that it is beyond the power of the council to pass and I have accompanied it with substitute drawn by me which divides the territory which was formerly Glenville, attaching a part of it to the twenty-fourth ward and a part to the twenty-sixth ward, as they now exist. The substitute is, in my judgment, free from legal objections—two other plans are possible, one to annex all the territory in question to the twenty-sixth ward, and the other to annex all to the twenty-fourth ward for voting purposes; in any event an equalization as to population of these wards cannot be had until one of the times provided by law arises for a general city redistricting."

LITIGATION ON THE INCREASE

**Yet City Solicitor's Office is
Still Adequate, Says
Baker's Report.**

**Hopes to Codify Ordinances
During the Coming
Year.**

The annual report of City Solicitor Baker, the tabulation of which has just been completed, will go to the council probably Monday evening. It deals with the work of the office during the year 1904.

"An inspection of this report," says Baker, "will show that there were pending Jan. 1, 1904, 249 cases, while on Jan. 1, 1905, there are but 185 cases pending. During the year covered by this report there were 104 suits in the courts, other than before justices of the peace, as against 101 for the preceding year. The number of cases disposed of, again excluding cases before justices of the peace, is 147, as against 117 during the preceding year.

"These comparative figures are cited chiefly to show that litigation of the city is constantly on the increase, but that as yet the present organization provided for the office of city solicitor by council is adequate for its disposition."

In another paragraph Baker says: "I call the council's particular attention to the fact that during the year under consideration the cases involving claims for damages against the city growing out of loss of life and personal injury in the construction of the waterworks tunnel were disposed of."

"There remain undisposed of a few cases instituted quite recently of claims against the city in behalf of persons who contracted caisson disease while at work in the tunnel, but so far as I am aware all claims for death or personal injury growing out of accident or explosion have been disposed of, and, unfortunate as was the loss of life involved in the construction of the tunnel, I cannot help feeling that the amount paid for claims of this character is in proportion to the undertaking exceedingly small.

"The report of the clerk of the police court shows the amount of work done by the assistants of the city solicitor assigned for duty as police prosecutors, and no further reference to that work is here necessary except to say that the 'sunrise court,' described in my report for 1903, has proved an effective and humane arrangement.

"No codification of the ordinances of the city has been made since 1896, and a new volume is greatly needed. It is my hope that during the next year this work may be so far advanced that its publication can be looked for at an early date."

PICK FIGHTERS FOR HOME RULE

**Mayor Johnson Soon to Take
Up the Selection of a Leg-
islative Ticket.**

**But Few Names for the Posi-
tions Have Been Dis-
cussed.**

Within the next week or ten days Mayor Johnson will take up the question of the make up of the Democratic legislative delegation that he will seek to have nominated by his party in this county. The mayor in speeches last week asserted that he considered the legislative delegation the point on which the great fight will be made.

"The fight that is on hand is to elect a legislative ticket that will give not only Cleveland, but every city in every county home rule. Give us a legislature that will break up the gang in Cincinnati," has been the battle cry of the mayor so far. And in view of the fact that many Republicans admit that their legislative ticket, as a whole, is rather weak, considerable interest has been aroused in the question of what men Mayor Johnson will support for nomination on the Democratic ticket.

Mr. Johnson said last night that he had not taken up the subject as yet, beyond discussing a few names. Councilman H. C. Maulberger will go on the senatorial ticket. This selection is the only one positively decided on up to date.

James A. Reynolds, a member of the board of directors of the international union of machinists, who was on the Democratic legislative ticket two years ago, and James Mulholland, assistant city clerk, are looked upon as being almost certain candidates on the representative ticket.

There are scores of candidates, however, and there will be no trouble in picking a sufficient number of men to fill out the list. The trouble will be to gain the support of sufficient delegates in the convention to insure the nomination of all candidates supported by the administration. Every ward has a favored son or two and since there are only fifteen places to be filled the fight to break the chosen list may be interesting.

With the return of City Solicitor Baker from his vacation the mayor will also take up, within the next few days, the plan he is considering for another effort to secure an agreement with the Cleveland Electric Railway Co. for the continued operation of the Central avenue line, the franchise of which has been declared expired by the United States district court. There were no developments last week because Mr. Baker was out of the city.

Baker was on a trip up the lakes and the boat on which he traveled was in the Lake Superior storm of a week ago. He said the vessel on which he traveled weathered the storm well, although many passengers, members of the crew and even some of the officers, were made very sick.



OLD CABLE SLOTS MUST COME UP

**City Will Do the Work in Case
Street Railroad Com-
pany Refuses.**

**City Solicitor Asked to Pre-
pare Anti-Auto Racing
Measure.**

The city council last night unan-
imously adopted a resolution requiring
the Cleveland Electric Railway Co. to
remove the old cable slots in Hough
and Payne avenues and Superior and
Water streets at once, or, in the event
of the company failing to do so, au-
thorizing the board of public service to
do the work, charging the cost to the
street railway company. The resolu-
tion was presented by Councilman
Kraus.

The measure declared that the health
officer had condemned the slots as be-
ing unsanitary by reason of the filth
accumulated in them, recited the fact
that the slots are several inches high-
er than the rails and pavement be-
tween them, that many of the man-
holes are in an unsafe condition, mak-
ing it dangerous to traffic on the
streets, especially at street intersec-
tions, and recited the further fact that
property owners had bitterly com-
plained of the slots.

Dewar's resolution requesting the
city solicitor to inform the council as
to what, if any, authority the council
has to investigate justice courts, was
also adopted, as was the Stanton res-
olution requesting the city solicitor to
prepare an ordinance prohibiting auto-
mobile races on circular inclosures. Mr.
Baker has already declared that the
council has no authority in this mat-
ter.

MAYOR SAYS HE WILL USE POLICE

**Determined to Prevent Erie
From Laying Switches
on Tod Street.**

**The Spirited Controversy Will
Probably Go to Solicitor
Baker for Decision.**

Mayor Johnson will vigorously con-
test the right of the Erie Railway Co.
to lay switch tracks across Tod street
without the company first securing
proper permission. He has so informed
the company and will use the police to
prevent the laying of the tracks.

The mayor stated last night that
several days ago officials of the Erie
came to him with a proposition they
will formally present to the council to-
morrow evening. This proposition sets
up the claim, since Mayor Johnson has
vetoed an ordinance giving them the
right to legally lay the switch tracks,
that the company has the right to lay
these tracks without an ordinance,
since the tracks of the Cleveland &
Mahoning Valley were laid before Tod
street was dedicated.

In other words, the company has
suddenly assumed a most independent
attitude and says that it can do as it
pleases, whether the city says yes
or no.

"When the proposition was placed
before me I told them very emphatical-
ly that I would order the police to stop
the work," said the mayor last even-
ing. "They then said that City Solic-
itor Baker had decided that the Lake
Shore, under similar conditions as are
now set forth by the Erie, had the right
to lay some tracks across West Mad-
ison avenue, and that under this deci-
sion the Lake Shore laid the tracks
without an ordinance. I answered that
the city solicitor would have to pass on
this case.

"The communication to the council,
therefore, is probably only an effort to
have the matter presented to the sol-
licitor through the proper channels. If
Mr. Baker decides that the company's
claim cannot be combated and that
the city will have to submit I presume
we will have to let them go ahead.

"I am opposed to the laying of any
tracks, though, unless the railroad com-
pany agrees that when the time comes
to separate grades at the streets in-
volved it will agree to pay the entire
cost of all additional tracks. I also
think that the city should have the
right to at any time revoke permits of
this character which it may grant."

The matter will not be definitely de-
cided for some time yet, since Mr. Ba-
ker is away on his vacation.

LAW FIXES THE RESPONSIBILITY ON OFFICIALS.

**New Ordinance Calls on Concon to
Put Trolley Guards at all
Crossings.**

After having been held up nearly
two months because City Solicitor
Baker could not decide who ought
to be held responsible in case of a
violation, the council Monday night
passed the Maulberger ordinance re-
quiring the Concon to put trolley
guards at all grade crossings. The
Concon is given three months more
in which to complete the installa-
tion of guards. The president and
general manager of the company
are held responsible for non-com-
pliance with the new ordinance, un-
der its terms.

The question as to whether Glen-
ville can be made into a new city
ward or parceled out among two
existing wards was delayed further
in its solution Monday night by an
amendment to the Hitchens' merger
ordinance, introduced through Sol-
licitor Baker and changing slightly
the boundary of one of the precincts.
Councilman Thompson put in an

other amendment adding the an-
nexed district to the 24th and 26th
wards.

HERE'S MAYOR TOM'S NEW SLATE.

**COMPLETE LIST OF THE MEN
HE WILL BACK FOR OFFICE
IN CITY AND COUNTY.**

**Has Not Yet Picked His Legisla-
tive Candidates -- Convention
Will Follow Leader.**

Mayor Tom has made his slate
for city and county offices. He has
not yet decided on his list of can-
didates for legislative jobs. There
is hardly a doubt that the Dem-
ocratic convention on Sept. 23 will
o. k. Mayor Tom's list. At the
primaries on Sept. 21, the council-
men will be nominated and the en-
tire city hall believes that Mayor
Tom's candidates will be nominated,
although in many cases they will
have hot opposition. Here's the
slate:

CITY OFFICES.

MAYOR—Tom L. Johnson.
VICE MAYOR—Chas. Lapp.
SOLICITOR—Newton D. Baker.
TREASURER—H. D. Coffinberry.
SERVERS—Wm. J. Springborn,
D. E. Leslie, Harris R. Cooley.
COUNCILMEN-AT-LARGE — P.
H. McKenna, Anton Biesinger, Jos.
Kraus.
CONSTABLE—Hugh Quay.
COUNCILMEN—Second ward, R.
J. Koch; fourth ward, open fight be-
tween Barney Schwartz and Jacob
Dahler; sixth ward, John Van Boldt;
eighth ward, Michael Feighan; 10th
ward, Morgan Gribben; 12th ward,
Patrick J. Callaghan; 14th ward, J.
C. Betz; 16th ward, Henry C. Erd-
man; 18th ward, W. F. Thompson;
20th ward, Jos. Matheis; 22d ward,
Michael J. Kelley; 24th ward, Wm.
C. Janson.

FEW CHANCES FOR FIGHT.

**City Council Will Have Few Matters
of Great Importance to Con-
sider Tonight.**

If the condition of pending busi-
ness can be taken as a criterion, the
meeting of the city council this even-
ing will be a quiet one.

Hitchens' ordinance to include a
part of the twenty-sixth ward and all
of Glenville into a new ward, to be
known as No. 27, is still sleeping
in the hands of the committee on
judiciary, where it has been ever
since City Solicitor Baker presented
his adverse report with a substitute
ordinance. The committee had not
even examined Baker's report. This
question might cause a fight if pre-
sented.

FIXES BOUNDS ON DISTRICT LINES

Hitchens Would Have Slight Change in Measure to Make Glenville Ward No. 27.

Council Passes Ordinance Requiring Trolley Guards at Crossings.

City Council Last Night:

Passed ordinances requiring placing of trolley guards over all wires at grade crossings.

Passed ordinance paying \$40,000 damages resulting from separation of grades at Nickel Plate crossing on Detroit street.

Received amendment to Glenville annexation ordinance for voting purposes. Also a substitute to same by Thompson.

Received number of minor ordinances and passed several resolutions.

Although it was not as short as some, the session of the city council last night was about as quiet as any that have been held this year. The only discussion resulted from the presentation by Hitchens of an amendment to his ordinance to place the annexed territory of Glenville into a separate ward. Thompson followed the amendment by offering a substitute ordinance prepared by the city solicitor several days ago. The session was also marked by the absence of Mayor Johnson.

Further consideration of the ordinance making provision for the placing of Glenville into sections of the city for voting purposes will come before the judiciary committee of the city council at a meeting to be held tomorrow afternoon. The committee battled with the matter for two hours yesterday, but made no recommendation. The Hitchen's ordinance originally intended to make of Glenville and a part of ward 26, a new ward to be known as ward 27.

City Solicitor Baker declared the ordinance illegal and offered a substitute, annexing the new territory to wards 24 and 26. Members Halle and Orgill of the judiciary committee expressed informal opinions yesterday, concurring with that of Baker. Hitchens on the other hand takes the stand that his ordinance is legal.

The committee finally let both ordinances, the original and substitute go before the council. When the original was placed on second reading last night, Hitchens offered an amendment fixing the boundary lines of the twentieth and twenty-first congressional districts, so that there would be no conflict. All of ward twenty-seven as proposed and two precincts of ward twenty-six will remain in the twentieth district.

After the amendment had been presented, Thompson presented a substitute ordinance, the one prepared by Baker. Beyond its formal presentation no action was taken. There are indications that there will be a lively fight over the question before long.

OBJECTS TO CONTRACT.

Part of Council Judiciary Committee Holds Bids for Market Plans Are Necessary.

The city council committee on judiciary, or rather, a majority of the membership of that committee, Halle and Orgill, have locked horns with the city administration on the question of passing a resolution through the council authorizing and approving a contract with Hubbell & Benes for the preparation of plans for the new West Side market house. This firm was engaged by the board of public service several weeks ago to prepare the plans. Much preliminary work has already been done and permanent studies are now being prepared.

The judiciary committee yesterday, however, took action that may block the matter for a time at least. The two members of the committee are of the opinion that a contract cannot be legally made with the firm. This opinion is best expressed in the disapproval as they wrote it on the measure. It is as follows:

"This ordinance provides for the expenditure of over \$500 and is not for salary, and is therefore, in our opinion, illegal. The law requires that such a contract should be advertised for bids."

This action was taken by the committee in the face of an opinion written on the ordinance by City Solicitor Baker to the effect that when two or three minor changes were made there was no legal objection to the passage of the ordinance. City Auditor Madigan had also certified on the measure that there was about \$35,000 in the market house fund.

President Springborn of the board of public service was informed of the committee's action later. He had no comment to offer other than to say that he did not think good results would be secured through advertising for bids on a proposition such as the preparation of plans for a market house. Since the resolution has yet to be acted upon by the finance committee of the council it was not reported at last night's session.

IS ENGINE HOUSE HOME?

City Solicitor Baker is Asked to Settle a Hitherto Undecided Question.

Councilman P. H. McKenna has asked City Solicitor Baker to decide a question that has heretofore been settled by precedent, but for which there seems never to have been a formal legal opinion. The question is from what places shall single members of the fire department vote?

Heretofore these men have registered and voted from the engine houses, although married men were permitted to register and vote from their residences. The election officials have said that the engine houses were the homes of the single men.

It so happens that some of these single men now object to having the engine house classed, or rather, they object to having an engine house officially designated as their home and by petition they asked Councilman McKenna to have the matter formally decided. McKenna presented it to Baker.

The solicitor is of the impression that the men should be permitted to register and vote from the home of their parents or other places where they live when not on duty rather than from the engine house, but he will investigate and then give a formal opinion on the subject.

COUNCIL HAS NO POWER.

Cannot Undertake Investigation of Justice Courts, Says Solicitor Baker in Formal Opinion.

City Solicitor Baker yesterday formally passed his opinion on the question of the right of the city council to investigate justice courts. Baker long ago said the council could not act, but regardless of this informal opinion the council passed a resolution requesting an official report. Baker, in his communication, says:

"Justices of the peace are officers recognized by the constitution of the state and performing functions regulated by statute. By a section of the municipal code it is provided that when the corporate limits of the city become identical with those of the township, the regulation of the disposition of fees and compensation of clerks and other officers and employees of justices and constables is subject to municipal ordinance, but neither this section nor any other section of which I am aware gives the council either the right to inquire into the conduct of justices of the peace in office or to discipline them for misfeasance or malfeasance."

WANTS GOOD, CLEAN MEN.

Mayor to Consider Candidates for the State Legislature Early This Week.

Mayor Tom L. Johnson and his chief political lieutenants will endeavor to select candidates whom they will support for nomination on the county legislative ticket at conferences to be held in the early part of this week. The ticket is to be nominated at the convention next Saturday.

The mayor took the matter up in an informal manner yesterday when he met with County Clerk Salen, City Auditor J. P. Madigan and City Solicitor Baker. The meeting was held after the mayor had met a delegation from the tenth, his home ward, for the purpose of urging all to support Morgan Gribben, who is seeking the nomination for council in the ward.

"The legislative ticket will be taken up this coming week," said the mayor afterward. "I shall try to get at it Tuesday."

Mr. Johnson considers the nomination of good, clean men on this delegation as among the most important work to be done by the convention.

ENGINE HOUSE NOT HOME.

Baker Decides Question of Single Firemen's Residence—Personal Service for Election Officers.

City Solicitor Baker yesterday, after a conference with the election supervisors, decided that a fireman, if single, should register and vote from his boarding house or place of residence when not on duty in the engine house. It had been thought single firemen should register from engine houses.

Baker also decided that the supervisors had the legal right to request the police department to serve all election officers by personal service. All notices to these officers will therefore be served by policemen in the future, so that there will be no complaint that officers failed to receive notices. Heretofore service has been secured through the mail.

LIKE UNSIGHTLY BIG MUSHROOMS

Hideous Billboards Spring Up
in the Night and Multiply
Throughout the City

City Solicitor Says Legislature
Has No Power to End
the Nuisance.

Billboards continue to multiply in Cleveland somewhat like mushrooms. Residents of streets go to their employment in the morning and returning ten hours later find the glaring advertisement agent in their midst, its growth a rival to that of the quick growing vegetable.

The residence sections of the city still remain subject to the invasion of the unsightly signs. Its effect upon the beauty of a street or surrounding scenery matters not a bit when a spot presents an opportunity for financial gains by the erection of a billboard.

Frequently the safety of human life is not considered, but the billboards are erected as close to the sidewalk as possible without encroaching upon the walk itself.

Such a condition exists on Willson avenue near Euclid avenue. There a billboard nearly one hundred feet long stands within a few feet of the sidewalk. One section of it is twenty-five feet in height and is set but a few inches farther back than the other sections. These are fifteen feet high. The sidewalk at this point is traveled by many pedestrians.

On Cedar avenue, just east of Willson avenue, another billboard has been erected and contributes its ill effect upon surrounding property. It is in front of a lot near the manual training school of Central high school. The building is of a pretty architecture and is thought to be one of the best appearing school buildings in the city.

The billboard next to it conceals a large part of the school and the grounds. From Willson avenue the building can hardly be seen, and only from the front can a view be commanded of the school.

At the easterly end of Quincy street, in one of the picturesque parts of the city, another monster billboard has been erected. It is several hundred feet in length. In this instance the board has been built some distance from the sidewalk.

On the West Side billboards have increased at an astonishing rate. Every vacant lot of any size appears to have been seized upon as a location for the boards, and in some places the signs alternate with the houses or business blocks.

"I have never said that I was preparing any bill for presentation to the legislature on the billboard question," said City Solicitor Baker yesterday. "I know absolutely nothing about the matter. As a matter of fact I am of the opinion that the legislature has conferred all the power that it is possible to give to cities. I do not believe that the legislature can

confer the right to regulate these 'ad fences' by reason of their being unsightly. The state has no right to prevent the use of private property for esthetic reasons."

"There is an ordinance governing the subject. That ordinance provides many regulations. The city has the right to compel the building of these boards so that they will be safe from fire. They must be safe from blowing down and they must be so constructed that they cannot be blown down in the wind."

"Have you ever advised that it might be best not to cause a test of this ordinance in the courts?"

"I have nothing to say on this point. The building code fixes certain regulations for billboards. Relative to enforcement of these, the code says:

"And it shall be his further duty to cause the prosecution of the person or persons by whom such violation was committed."

Vorce, moreover, admits that no attention is paid to the erection of billboards within the city unless complaint is made to his office. When such complaint is made an inspector examines the cause, but there are few cases on record where anything was ever done to compel the billboard companies to make any alterations or changes in boards that are up.

JUSTICE CAUSES ARREST OF TWO

Prosecutor Levine and Attorney Stern Charged With
Secreting Records.

Sensational Turn Yesterday in
Crusade Against Justice Courts.

ARRESTED MEN GET BAIL

Justice William Francis Swears to
Warrants Against Men Who Are
Prosecuting Him—Both Levine and
Stern Now Say Francis Will be
Taken Before the Grand Jury—
Gave Francis Receipts, They Say,
for Records He Claims Were
Taken Falsely.

The crusade against justice courts took a sensational turn yesterday when Assistant Police Prosecutor Manuel Levine and Attorney Joseph L. Stern were arrested on warrants sworn out by Justice of the Peace William Francis charging them with maliciously abstracting and secreting records from his court.

As the result of their arrest, Levine and Stern say they will take the case before the grand jury tomorrow and endeavor to have Francis indicted on the charge of perjury.

The warrants were issued in Justice Nellis' court at 2 o'clock yesterday afternoon and placed in the hands

of Constable Gannon for service. Both Stern and Levine learned that the warrants were out and went directly to Justice Nellis' home, where they gave bond for their appearance in court. Their cases were set for Tuesday morning at 9 o'clock. Bail was fixed at \$200 in each case, L. F. McGrath going bond for Stern, City Solicitor Newton D. Baker going on Levine's bond.

Levine made the trip to Justice Nellis' home in the city automobile with City Solicitor Baker and Police Prosecutor McMahon. The arrest was taken lightly by Levine and Tuesday morning he will be on hand for trial with the city solicitor to defend him he says.

The arrests followed a threat made by Justice William Francis and his attorney, Joseph Klein, in police court yesterday morning. Francis is now under arrest on a charge of extortion. Friday morning Attorney Joseph Stern appeared at his court and asked for the records in the case of Webber vs. McIntyre, in which he represented the plaintiff. Francis gave him the records, Stern says, and also says he gave Francis a receipt for them. The records were then taken to Prosecutor Levine's office, where it was intended to keep them until the trial.

Francis appeared at the prosecutor's office yesterday morning and demanded that the records be given back. Levine refused, saying that the records of one justice of the peace had been stolen and that he did not want to take any chances. Francis then said that he would get a warrant for the arrest of Levine and Stern. Francis said he would swear to the warrants and Levine warned him that he would lay himself open to perjury.

Francis made an effort in court to get the records, but Judge Fiedler refused to give them up. He said, however, that the defense might examine them in the presence of the prosecutor. Francis left the courtroom immediately in the afternoon and went to Justice Nellis' court, where he swore out the warrants for Levine and Stern.

"We have the court's order not to give up the records," said Prosecutor Levine last night, "and we don't propose to give them up. The charge he makes against us is absurd."

"I got the records honestly, and Francis has a receipt for them," said Attorney Stern last night. "The records were not maliciously abstracted, neither were they secreted. I told Francis that Prosecutor Levine had them in his office. We are going to take the case to the grand jury tomorrow. In addition, I am going to sue for false arrest."

Prosecutor Levine said last night that the crusade against the justice courts would be renewed tomorrow and that his arrest would make no difference in its progress.

Justice Francis says he acted on the advice of his attorney in the matter. He claims that a justice court is a higher court than the police court and accordingly Judge Fiedler cannot order his records to be held in evidence. He claims that an order from the common pleas court is necessary to hold the records. City Solicitor Baker holds differently, however.

CAN'T REGULATE AUTO RACING.

City Solicitor Says Council Has No Authority.

Replying to the councilmanic resolution requesting the preparation of an ordinance to stop automobile racing on circular tracks, City Solicitor Baker yesterday formally decided that the city council has no power. He says the council can only regulate automobiles on public streets.

LEVINE AND STERN ARE FREED.

JUSTICE NELLIS HELD THAT EVIDENCE WAS NOT SUFFICIENT.

BAKER ARRAIGNED FRANCIS, WHO CAUSED THE ARRESTS.

City Solicitor Baker sailed into Justice Francis Tuesday morning in the case of Francis against Police Prosecutor Levine and Atty. Jos. Stern. Levine and Stern were defendants in a criminal action brought by Francis for the recovery of certain papers connected with the extortion case against Francis and procured by the defendants.

The hearing was before Justice Nellis, who threw the case out of court, on the ground that there was no animus shown by Levine and Stern.

"You know," said the city solicitor, "that if you were morally right in this action you would have instituted civil proceedings for the recovery of these papers instead of bringing a criminal action. By bringing a criminal action you show your own personal feeling and animus in this affair and have drifted away from the proper course which a man honest in his intentions would have taken."

The records which Francis sought to recover are now in the hands of Judge Fiedler.

CONSENT NOT NECESSARY.

Solicitor Baker Says Erie Railway Can Lay Switches Despite City Council.

City Solicitor Baker in a communication to the council last night said that the contention of the Erie Railway Co., that it could lay tracks across Tod street, without a franchise from the council, was a correct one. The company wants to lay two additional switch tracks.

Originally the company asked for a franchise. The council passed an ordinance granting it, but Mayor Johnson afterwards vetoed the measure for the reason that it made no provisions for the separation of grades and that the tracks could not be ordered removed. The new claim was then set up. Baker in his letter says:

"The right of way of the company having been first in time, the proceedings to open a road across the right of way by the county commissioners was, under the statutes of this state, possible only upon satisfactory proof

that the opening of such road would not unnecessarily interfere with the use by the railway company of its property. The thing acquired by the public in the opening of the road was the right to cross at that point the right of way of the company, and subsequent to the acquisition of such right, it would be incompetent for the railroad company to place obstacles in the way of the road, but by a similar course of reasoning, it is plain that it would be equally incompetent for the public unnecessarily to restrict the use of its property by the company. From all of which it seems to me clear that the rights of the parties are as follows:

"The railway company still owns the right of way and still has the right to place additional tracks therein for its full width. The public has the right to cross this right of way at the point indicated, and however many tracks the company sees fit to place in this right of way at this point, it must restore the street as nearly as practicable to its existing condition and make it safe for public travel. The company cannot obstruct the street, and the city cannot obstruct the right of way.

"I am therefore of opinion that it is within the rights of the Erie Railroad Co., as successor to the C. & M. V. Railway Co., to place additional tracks along its right of way at the intersection of Tod street without further authority from the council, but that these tracks must be placed under permits from the board of public service of such character as to secure public safety during the progress of the work and the restoration of the street to its existing condition upon the completion of the work in question."

Baker said he sent a copy of the letter to the board of public service as their authority for issuing a permit upon the application of the company.

TO BE ARRAIGNED TODAY.

Levine and Stern to Appear Before Justice Nellis—Nothing New in Crusade.

Assistant Police Prosecutor Levine and Attorney Joseph Stern will be arraigned in Justice Nellis' court at 9 o'clock this morning to answer to the charge of maliciously abstracting and secreting certain records from Justice Francis' court. City Solicitor Newton D. Baker will defend Levine.

Levine was engaged in the common pleas courts yesterday and no new steps were taken in the crusade against justice courts and their attaches, although several complaints were made to Levine during the morning.

Edward Kestner, the Lake Shore detective, arrested on the charge of extortion in the cases of Mary Ohris and Frances Trawinck, was arraigned in police court yesterday morning. His case was continued until Oct. 10.

HOLDS CITY CAN'T PROBE J. PS.

The council has no power to investigate the justices of the peace, according to an opinion by City Solicitor Baker. He says the justices are constitutional officers and that the city has no power to inquire into their conduct or discipline them for misconduct or malfeasance. Baker also said Thursday that the council has no authority to prevent automobile races on circular tracks.

LAW TO BE HEARD ON ROAD FIGHT

Question of Right to Close Kenilworth Goes to the City Solicitor.

Contractor Says He Got Contract Straight From Gov. Herrick.

The question of the right of Gov. Herrick to close up Kenilworth road, a public thoroughfare near his palatial residence on Euclid Heights, has gone to City Solicitor Baker for decision.

The discovery, after an investigation by city officials yesterday, that the city council had vacated as public streets all the drives on Euclid Heights has resulted in the submission of the proposition to Baker.

The road divides the residence property of many of the rich residents of the heights and it was their desire to make their individual properties contiguous that led to the closing of the road. Since the council legally vacated the streets the question for the law department to decide is whether or not Kenilworth road can now be closed, since it has been used as a thoroughfare ever since 1895.

The road is sixty feet in width and is being turned into a twelve-foot alley. John Boddy, contractor in charge of the work, said yesterday that he secured the contract from Gov. Herrick. When asked yesterday why he did not apply for or receive a permit for closing the road, it being city property, Boddy replied:

"Why, I got the contract from the governor. I supposed he had attended to that."

The work within the city limits has been stopped by the order of the public works department and no further work will be permitted until City Solicitor Baker renders a decision.

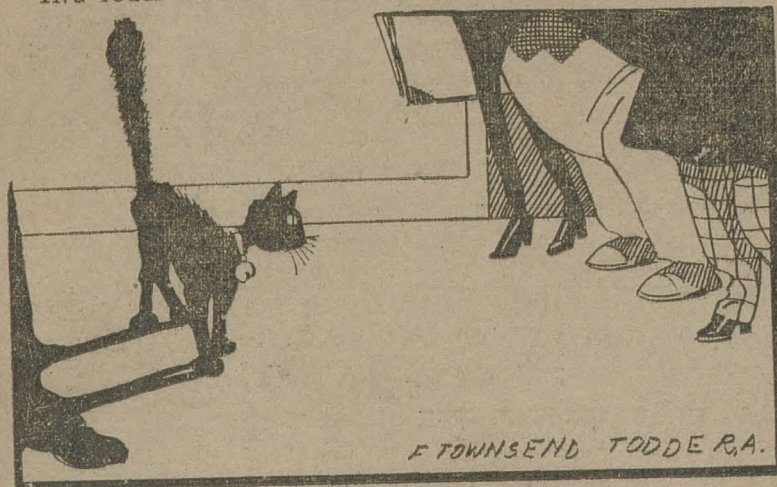
BAKER SAYS CONTRACT COST CITY HEAVILY.

Alleging that because he broke his contract for the construction of the foundation work for the middle Seneca-st bridge, the city was obliged to pay \$6546.58 more to others to complete the work, City Solicitor Baker is asking judgment for that amount against Forest E. Gribben in a cross-petition. The cross-petition is to a suit filed by Gribben, in which he asks damages, alleging that the city broke its contract with him.

Baker says in his cross-petition that Gribben agreed to build the foundation work for a specified price and had done \$4075.76 worth of the work when the city engineer submitted plans for a coffer dam to be used. Gribben objected to the coffer dam plans and the city took advantage of a clause in the contract and nullified it. G. Wm. Doerzbach completed the work.

LET THOSE DEMOCRATS MAKE THE BLACK EYE, YES, SAYS M. JULES ROD.

BUT NEVAIRE SHOULD THOSE METHODS TO KILL BE PERMIT, DECLARES FRENCH JOURNALIST AFTER ATTENDING 10TH WARD MEETING IN MAYOR'S GARAGE.



THE TAMMANY TIGER.

We Democrats of the 10th ward met in the mayor's garage at his home on Euclid-av Tuesday night. It was the annual meeting of the faithful of the 10th Ward Democratic club. We had vaudeville and politics. We felt the tires of the mayor's new French automobile, and such of us as could fight our way through the crowd at one end of the garage got a sandwich and a glass of beer.

Our club has met at the mayor's home before. Once we met in the house, but some of us

Stumbled Over the Furniture

and felt embarrassed, so the next time we met in the barn. We met in the barn Tuesday night, but now it's called the garage.

There was a fight when a Republican in the crowd suggested that a mayor who called his barn a garage was wandering far from the old ideas of Democratic simplicity. The disturbance started in an argument about whether garage is pronounced as carriage or "ga-raw-shz." When the mayor arrived he said the second way was right, but that he still called it a barn. So we put the Republican out a back way, punched him once or twice, and let him go.

The garage was crowded and many stood outside and looked through the windows. Once from where we were we could see a man with a sandwich and a glass of beer. A little man who had tried half an hour to shove through the crowd to the bar, and hadn't reached it, made a roar. Then an anti-saloon man on the outside went away shaking his head.

We commissioners of "The Press," M. Jules Rod, journalist of Paris; Herr August Schnable and Artist Todde, R. A., arrived early. There was a little stage in the middle of

the garage with a piano and with flags draped about. There was a

Portrait of the Mayor

illuminated by electric light bulbs. Charley Salen was there with Jim Kearney, a slim young man, who is leader of the ward.

Mr. Salen said to the commission that he would like to accommodate us, but he couldn't let us see the Tammany tiger. "It is a delicate, little fellow and we have to be careful," he said. He assured us the tiger was kind and gentle and would not bite as some have said. Once we thought we saw the tiger, but Mr. Salen said no, that was the cat.

Herr Schnable yelled for the wrong candidate for the councilmanic nomination and they crowded him up in a corner until he said he didn't mean it. City Solicitor Baker made a speech in which he said: "We all love our mayor. We are proud of the things that have been done. He is a leader, not a boss. It is you, not the mayor, who have done these things."

We all shouted hurray with great enthusiasm. "Hoch der burgomaster!" cried Herr Schnable.

Guy Flick told some funny stories and sang a song. There was a song and dance turn. Mr. Salen and Police Prosecutor McMahon, who seeks the nomination as county prosecutor, made speeches. Then the mayor came and made a speech. He said he favored Morgan Gribben for the council. Friends of Victor Harston, another candidate, hooted. Councilman Dewar wanted to speak and the

Crowd Wouldn't Let Him

The mayor had been at two earlier meetings. He hurried away to speak at two others, and we Democrats of the 10th ward went home.

By M. Jules Rod.

"With one large enthusiasm I

make a study concerning those politics in a ward.

"Not at all inexperience am I concerning those practical politics. I have study him, those politics, by mail in 10 lessons from those school le correspondance.

"Quite the same I disapprove of some remarks out of the speech of Monsieur McMahon. I have take them down. He remark 'Boyd promises an ideal government if he is elected mayor. An ideal government is a perfect government. My friends, the only way to attain perfection is to die and go to the right place. My friends, let us help Mr. Boyd. Turn out election day and kill the Republicans.'

"By gar!

"Concerning those sentiments of to murder I make the report instantly to one policeman

Which Stands the Door By

to watch those Democrats. He is not alarm. That policeman express to me his belief it is the joke, those sentiments of to murder. It is to kill politically with some votes, to accomplish the snow under.

"Yet how for those practical politics which suggest the murder to prevent a vote? Should such things be permit? Nevaire! Let those Democrats make the black eye, yes, or perhaps accomplish the punch in the nose. But nevaire should those methods to kill be permit."

COURT WILL DECIDE LOW FARE FIGHT

NO ARGUMENTS TO BE MADE
IN DENISON-AV CASE.

The injunction case against the Denison-av 3-cent fare railway was called before Judge Lawrence in common pleas court Monday. Atty. C. C. Collister represents Wm. M. Reynolds, the plaintiff, while City Solicitor Baker and Judge Blandin represent the defendants. It was decided by the attorneys to submit the case to the court on an agreed statement of facts.

Reynolds' chief contention is that the city authorities did not properly advertise for bids for the construction of the Denison-av line, and that the Concon did not have a chance to bid. He also claims that the city exceeded its corporate authority by granting a franchise beyond its corporate limits into Linndale.

EXPECT NO FIGHT AT CONVENTION

Prominent Democrats Met
Last Night and Completed Plans.

Howe, Williams, Ward and
Schmidt Selected for
State Senators.

Work to be Quickly Done.

County convention called to order at 9 o'clock sharp, standard time, the city convention being assembled as soon as county nominations are disposed of.

Mayor Johnson, by reason of his position as chairman of the executive committee, temporary chairman.

M. B. Excell will be permanent chairman, with instructions to expedite business with all speed.

Business of both conventions to be completed in less than two hours, if possible.

Details of the arrangement for the county and city convention to be held by Cuyahoga county and Cleveland Democrats in Germania hall this morning were completed at a meeting of ward and township leaders with prominent convention delegates and leaders of the party held in the city hall last evening. Mayor Johnson was in charge of the meeting. He was assisted by City Auditor Madigan, Solicitor Baker, Vice Mayor Lapp and Secretary Agnew of the executive committee. County Clerk Salen was absent, it being asserted that he was sick.

The meeting was conducted behind closed doors, and every participant was pledged to secrecy, but it is believed that every detail with the exception of the completion of a house of representatives delegation was gone over and fully worked out. The secrecy pledge taken by the participants was pretty well observed, particularly with reference to the make-up of the representative ticket.

Carl H. Nau was selected, however, as the man who shall be nominated for city treasurer to succeed Henry D. Coffinberry, who positively declines a re-nomination on the ground that his health will not permit him to attend to the duties of his office. P. W. Ward, at present a member of the board of health; Frederic C. Howe, a former city councilman and at present a trustee of the sinking fund commission; J. M. Williams, a former member of the house of representatives, and Tom Schmidt, a strong friend of Charles P. Salen, are the men who will be nominated for state senators. Until last night's meeting it was thought that Councilman Henry C. Maulberger would be one of the quartet of senatorial nominees, but at the last moment it was de-

cided that he should be nominated as one of the candidates for the lower house.

The full make up of the representative ticket has probably been decided upon with the exception of the fact that consents of some men have probably not yet been secured. Henry C. Erdman, defeated for the councilmanic nomination in the sixteenth ward Thursday, is believed to be one whose name is under consideration for the place. Practically all of the other prominent candidates who will be named have been known for several days.

The convention will be called to order in Germania hall, Erie street, promptly at 9 o'clock and no delay will be permitted because of the desire to get through in time to catch an early train to Newark, where the state opening will take place today. The desire for haste in disposing of the work of the convention was strongly urged on those present at last night's meeting and a special request was made that all delegates be on hand promptly.

The platform is all ready, having been prepared by City Solicitor Baker and the mayor last evening. Salen, Madigan, County Solicitor Stage and one or two others had a hand in its preparation. It will be practically a reaffirmation of the state platform with the exception of the fact that it will be stronger on a number of points, particularly that of home rule and the right of cities to purchase and operate electric light, gas and street railway companies. It will also strongly demand that the present election laws be changed so as to keep the booths open later in the evenings. All booths, in cities like Cleveland and Cincinnati, close under the present law at 4 o'clock in the afternoon. The Cleveland Democrats will ask that the booths be kept open until 5 o'clock at least.

Mayor Johnson's name will be placed before the convention for a third nomination by City Clerk Peter Witt, who will briefly describe the improvements secured and the general good work of the present administration. The county ticket will be as follows:

Probate judge, Charles W. Stage, at present county solicitor; insolvency judge, George S. Addams, assistant city solicitor; county clerk, Charles P. Salen; county treasurer, James P. Madigan, at present city auditor; county commissioner, Richard J. McKenzie; county prosecutor, S. V. McMahon.

The city ticket will be: Mayor, Tom L. Johnson; vice mayor, Charles W. Lapp; members of the board of public service, W. J. Springborn, Harris R. Cooley and Daniel E. Leslie; city solicitor, Newton D. Baker; city treasurer, Carl H. Nau; councilmen-at-large, Anton Biesinger, P. H. McKenna and Joseph Kraus, unless the unexpected happens and the mayor's friends lose control of the convention; justice of the peace, E. H. Bohm and probably J. V. Ginley, although this nomination was considered as somewhat doubtful last night and there is a well defined feeling that there will be a big fight on Ginley's nomination.

Immediately after the completion of work by the conventions Mayor Johnson will leave for Newark, where the state opening will be held in the afternoon. Ten or fifteen friends will accompany him and part of the trip will be made by special train, the mayor returning to Cleveland at 2 o'clock Sunday morning.

CAMPAIGN OPENING OCT. 9.

Cleveland Politics Will Not Warm
Up for a Week or So—Democratic
Rally Saturday Night.

The Democratic campaign in Cleveland will, it is believed, open on Mon-

day, Oct. 9. One or two informal meetings may be held before that time, but no attempt at a formal opening will be made for over a week, according to statements made yesterday. Plans for the prosecution of the campaign after that date are materializing very fast, however.

J. Martin Thumm has been placed in charge of the work of arranging meetings, and he stated yesterday that Mayor Johnson's tent would be used freely after the battle is on. Thumm is now engaged in securing the right to use various vacant lots about the city for the tent meetings. There will also be the usual number of hall meetings. A number of wards have asked for the first meeting, but it has not yet been decided where the first big meeting will be held.

There will be a Democratic rally and pole raising at the foot of Queen street, near Pearl street, Saturday night. Mayor Tom L. Johnson, Charles P. Salen, Newton D. Baker, James P. Madigan, W. J. Springborn, Harris R. Cooley, Daniel E. Leslie and Thomas P. Schmidt are being advertised as the speakers.

"NO ATTEMPT TO OBEY THE LAWS"

Attorney Arraigns Banking
Methods Before Bankers
of Ohio.

President Hinsch for Open
Shop—Other Doings of
Convention.

"Although there are regulations to govern general banking and trust companies, it will be admitted that these institutions make no attempt to observe the laws now in force which regulate them; and we find trust companies in Ohio loaning money to their directors, though it is prohibited by law; we discover savings banks making loans to directors and other officers, without regard to the limit placed by the savings bank act; and we see incorporated banks engaged in general banking and making loans without regard to the limit placed by law."

This was the scathing arraignment of Ohio's banking system made to the Ohio bankers in convention at the Chamber of Commerce hall yesterday by Drausin Wulsin, a Cincinnati attorney. In a half hour address Mr. Wulsin handled his subject, "The Proposed Ohio Bank Bill," without gloves and the bankers listened with interest.

The convention opened under auspicious circumstances at 9 o'clock. Bishop Horstmann led the devotional exercises and then City Solicitor Newton D. Baker welcomed the delegates in the absence of Mayor Johnson. Gov. Herrick, representing Cleveland bankers also welcomed the visitors. Gen. J. Warren Kiefer responded on their behalf.

NOT A CRACK IN MAYOR'S SLATE.

GERMANIA HALL CONVENTION RATIFIED THE DEMOCRATIC TICKET AND QUIT.

THEN THE DELEGATES HUSTLED TO GET THE NEW-ARK TRAIN.

Nau Got the Nomination for City Treasurer—Not a Single Row.

CITY TICKET.

MAYOR—Tom L. Johnson.

VICE MAYOR—C. W. Lapp.

CITY SOLICITOR—Newton D. Baker.

CITY TREASURER—Carl H. Nau.

BOARD OF PUBLIC SERVICE—Wm. J. Springborn, Daniel Leslie, Harris R. Cooley.

COUNCILMEN-AT-LARGE—Anton Biesinger, Jos. Kraus, P. H. McKenna.

JUSTICES OF THE PEACE—E. H. Bohm, J. V. Ginley.

CONSTABLE—Hugh Quay.

COUNTY TICKET.

STATE SENATORS—Fred C. Howe, Jas. M. Williams, P. W. Ward, Thos. P. Schmitt.

STATE REPRESENTATIVES—H. C. Maulberger, Jas. Reynolds, A.



OPENING THE CONVENTION.

Kolinski, John N. Stockwell, John P. Smith, J. B. Roberts, Jos. F. Sawicki, A. R. Corlett, Jos. Mulach, P. D. Metzger, Wm. E. Rolf.

PROBATE JUDGE—C. W. Stage.
INSOLVENCY COURT JUDGE—Geo. S. Addams.
COUNTY CLERK—Chas. P. Salen.
COUNTY TREASURER—Jas. P. Madigan.
COUNTY COMMISSIONER—R. J. McKenzie.
COUNTY SURVEYOR—Andrew B. Lee.
COUNTY PROSECUTOR—Sylvester V. McMahon.

Mayor Tom, alone, sat on the platform at Germania hall Saturday morning. It was 8:55. He looked at his watch, then at the almost empty hall before him, and called the Democratic county convention to order by virtue of his office as chairman of the committee.

M. B. Excell was elected chairman in short order, Agnew secretary and Walter K. Patterson assistant secretary. The committee on resolutions was composed of Newton D. Baker, Mayor Mathews, of South Brooklyn; J. A. Fogle, J. V. McGorray and Pat Finucan. This committee reported resolutions which said "the candidates for the council both were pledged to adhere to the positions of the present city administration upon the street railroad question and upon other public service questions, and in all matters affecting the public interest to ascertain and be guided by the will of their constituents as expressed in public meetings."

The state senators were nominated with lightning speed. So were the state representatives. The nominations of Stage for probate judge and Addams for insolvency judge went through without incident. Salen's nomination for county clerk was accompanied by applause, cheering and the presentation of an enormous bouquet. A speech was called for. Excell objected, but Mayor Tom gave his permission and Salen made his speech.

"I recognize Tom L. Johnson, of the 10th ward," said the chairman, and Mayor Tom placed the name of Madigan in nomination for county treasurer. McMahon, after his nomination for county prosecutor, promised to proceed against unlawful and illicit combinations of capital and said he would prosecute such offenders as soon as he found them.

Peter Witt, city clerk, placed the name of Tom L. Johnson in nomination for mayor, when the city convention, with the same officers as presided at the county convention, was called to order.

"Are there any other nominations?" asked the chairman.

"No!" cried the delegates, and Mayor Tom made a short speech.

The first contest of the day was for city treasurer. Nau was the slate candidate. Ed Day put the name of Geo. R. McKay in nomination. Mayor Tom explained why Treasurer Coffinberry did not desire a renomination. McKay received 19½ votes and Nau the rest.

VOTES DOWN THE

NEW WARD PLAN

Council Refuses to Allow Glenville to Organize as the Twenty-Seventh.

Will Now Probably Go to the Twenty-Sixth and Twenty-Fourth.

By a vote of twenty-nine to three the city council last night rejected the proposition to establish a twenty-seventh ward in Cleveland. That there should be such a ward, comprised of all the newly annexed territory of Glenville with two precincts of the present twenty-sixth ward, was one of the provisions by which Glenville was annexed to Cleveland. Under the agreement the establishment of such a ward was mandatory, if the agreement was fully observed.

City Solicitor Baker is of the opinion that the creation of such a ward at this time is illegal and the council committee on judiciary after full consideration of the subject agreed with him. The committee, therefore, disapproved of the original Hitchens' ordinance providing such a political subdivision for Cleveland and recommended for adoption a substitute ordinance drawn by Baker and introduced into the council by Thompson. This ordinance proposes to add part of old Glenville to the twenty-sixth and part to the twenty-fourth ward, and after the committee's report had been made the council accepted the substitute and rejected the original, which practically means that Cleveland will continue as a city of twenty-six wards.

After accepting the substitute, however, an amendment by the solicitor to the substitute was offered. The amendment proposed that the old boundaries of ward twenty-six be left as they were. These boundaries had inadvertently been changed, one ward being given part of territory that formerly belonged to the other. The amendment was agreed to, nineteen to thirteen.

Wright then proposed another amendment which fixed another division of the annexed territory. He proposed that all territory south of St. Clair street be added to the twenty-sixth ward and all that north to the twenty-fourth, making the division line of old Glenville between the wards run east and west instead of north and south as Baker intended. Under Baker's division the twenty-sixth is an elongated ward, while Wright desired conditions reversed, making his ward compact and the twenty-fourth elongated. The council rejected his amendment, after Hitchens' had declared Baker's division of territory perfectly fair.

The ordinance was then placed on second reading. Later in the evening an attempt was made to pass the measure under suspension of the rules, but the two-thirds vote necessary for suspension could not be secured, the motion being supported by but nineteen members.

Glenville people say that if they cannot have a separate ward they want the territory divided as the city solicitor has suggested.

The council did pass under suspension of the rules, however, an ordinance authorizing an expenditure of an additional \$1,000 for the improvement of Cedar Glens. This work is now under way.

AT THE JUSTICE COURT TRIAL.



SAYS CONSTABLE THREATENED HER

Witness in Justice Extortion
Case Causes Sensation
in Court.

Justice Francis and Constables
Hudson and Monaghan
on Trial.

Charging that Constable W. H. Hudson has threatened to have compromising letters read in court should she testify against him, Miss Anna Wetter sprung a sensation in police court yesterday afternoon. She was testifying in the case of Justice William Francis and his two constables, W. H. Hudson and W. J. Monaghan, jointly charged with extortion.

Miss Wetter testified that Hudson came to her in the central station yes-

terday morning and accused her of being the instigator of his arrest. She denied it, and asserted that she had just arrived in Cleveland from Bucyrus, where she had been for several weeks. Hudson then told her, she said, that if she testified against him he would produce certain compromising letters and have them read in court.

Miss Wetter was unwilling to state just what the letters contained, but characterized them as "obscene." She said that while she received them, she did not read their contents.

Attorney Cline representing Justice Francis and Hudson objected strenuously to the testimony relative to the letters and Hudson's alleged threat, going into the record, but Judge Fiedler held that it was competent and bearing on the crime charged.

When Miss Wetter left the witness stand on the adjournment of the court, City Solicitor Baker told her to inform

the judge should any attempts be made to threaten or intimidate her.

The cases of Justice Francis and his constables were called at 2 o'clock. City Solicitor Baker and Assistant Police Prosecutor Levine conducted the prosecution. There was considerable delay over the selection of the jury and but one witness, Miss Anna Wetter, was heard. Her testimony was concluded when adjourning time arrived and the case was set for 10 o'clock this morning.

Justice Francis and his constables were arrested for making alleged extortionate charges in the case of Anna Wetter vs. A. C. McIntyre. Miss Wetter secured a judgment for \$300 against McIntyre, but at forced sale his property only brought about \$76. Out of that sum she received but \$2, she testified, the remainder, with the exception of \$15 for attorney's fees, being swallowed up in justice court costs.

WILL PAY \$8,400 FOR RIGHT TO RUN

Democratic Executive Committee Fixes Assessment of Candidates.

O. K.'s Fitzgerald for Reappointment to the Election Board.

Candidates on the Democratic county and city ticket will pay a combined total of \$8,400 for the privilege of running for office against their Republican opponents this fall.

At a meeting of the Democratic executive committee held yesterday the assessment of candidates was determined, the money so assessed to be paid on or before Oct. 5.

The committee, under the law, is empowered to levy and collect assessments. In case any candidate thinks the amount is exorbitant the committee, in an extreme case, can declare the place on the ticket vacant and can name a man to fill the vacancy.

The Democratic candidates generally last night said they were perfectly satisfied with the amounts asked. Charles P. Salen, candidate for county clerk, heads the list with an assessment of \$1,500, followed by J. P. Madigan, candidate for county treasurer, with an assessment of \$1,000. The assessment of the other candidates was fixed as follows:

State senators \$50, state representatives \$50, probate judge \$400, insolvency and juvenile court judge \$150, county commissioner \$350, county surveyor \$200 and county prosecutor \$350, mayor \$600, vice mayor \$200, city solicitor \$500, city treasurer \$400, members of the board of public service \$400, councilmen-at-large \$100, justices of the peace \$200 and constables \$50.

Aside from the fixing of the assessments the committee took the important action of recommending J. J. Fitzgerald for reappointment to the board of state supervisors of elections for this county. The election laws are so framed that the secretary of state is practically obliged to appoint the man recommended by the regular party committee. There is no question as to the regularity of the present committee, so that Fitzgerald seems certain to serve another term on the board. The secretary of state makes the formal appointments, or reappointments, to boards in every county, January next.

LOOKS YOUNG, BUT IS ALL RIGHT.

N. D. Baker Finds His Appearance a Cause for Worry.

Saturday proved to be something of a cruel day for City Solicitor Newton D. Baker.

Early in the day a photographer called, sought pictures of Mr. Baker in different positions and finally quit, saying:

"Well, I find it impossible to get a photograph of you that doesn't look kiddish."

Later in the day when his office force had left, a stranger called, stepped in front of Mr. Baker's office door and said:

"I would like to see some of those legal fellows around here."

Mr. Baker informed him that the office men had gone for the day and only one remained. After looking about a few minutes the stranger said to Mr. Baker that he would like to see the one lawyer that was still at work.

Great was the surprise to the caller when he was told that the "one" was Mr. Baker himself. The stranger ejaculated:

"Why, I thought you just helped around here."

In the evening Mr. Baker attended a political meeting in the fifth ward. There he was introduced as "The Napoleon of Democracy," to which he replied:

"Now, here; I have been imposed upon about enough today. I know it is only because of my being undersize that I am dubbed a Bonaparte. Thereupon the speaker told what he had experienced during the preceding hours and the listeners exclaimed:

"Your'e all right Baker if you do look young."

MAYOR MAY SAVE COUNCILMAN.

Mayor Tom may not lose a councilman in the 24th ward through the annexation of Glenville. Three Glenville citizens sent a communication to the council Monday night saying that the proposed division of the Glenville territory between the 24th and 26th wards did not please them and asking that the ordinance be sent back to committee. The council complied with the request and City Solicitor Baker said Tuesday that possibly the entire territory would be added to the 26th ward, instead of being apportioned between two. Such a solution of the problem would save Mayor Tom his councilmen in the 24th ward.

STUDY CEMETERY TITLE.

Councilman Wants Erie Street Grounds Abandoned and Baker Will Investigate.

Councilman A. H. Lewis yesterday presented a formal request to City Solicitor Baker that he investigate what legal steps are necessary to secure the abandonment of Erie street cemetery.

Lewis is anxious to have the bodies removed and the property diverted to some other use. He is not particular as to what use shall be made of it, but is of the opinion that the cemetery, as a cemetery, is destructive of the value of surrounding property.

Baker promised to secure at once an abstract of the property and study the conditions under which the city gained possession, for the purpose of determining whether or not it is possible to divert the use of the land. Baker thinks it possible that the city may have got the property for cemetery purposes only.

CONSTABLE WHO CANNOT READ

Attorney Makes Novel Defense of W. J. Monaghan in Extortion Case.

W. H. Hudson Admits Working Agreement With Justice Francis.

A novel defense is being made by the attorney for Constable W. J. Monaghan, now on trial in police court on the charge of extortion with Justice Francis and Constable W. H. Hudson. Monaghan is accused of charging extortionate fees in the case of Wetter vs. McIntyre.

The attorney is trying to show that Monaghan can neither read nor write, and consequently was not responsible for charging excessive fees. Monaghan testified that he had to leave school at an early age to work to support his widowed mother. He said that he could neither read nor write, and when the various costs bills were presented to him in the examination he testified that he could not tell what was written on them. He was able to identify his signature, which, he said, he was barely able to write. When asked if he had ever read the statutes regulating the fees allowed to constables, he replied in the negative.

City Solicitor Baker jumped to his feet and asked Monaghan how he came to be elected constable. An attorney answered that a convention forced the nomination on him and that he went in with a landslide.

Special Constable W. H. Hudson admitted on cross-examination that the costs bills had been made out and signed by Justice Francis several days before the goods taken from McIntyre's store were sold at auction. He said that he brought the case to Justice Francis' court because he knew he would be appointed a special constable. When further pressed by Solicitor Baker he admitted that he rented desk room in Justice Francis' office and shared the expense with him. He said he had an agreement with Francis to be appointed a special constable in any case he brought in, if he wanted it. Before making out cost bills, he said, he and Monaghan always held a conference.

"Did Monaghan tell you the value of his services, or simply the services themselves?" Baker asked.

"We got together on it and also talked it over with Justice Francis. Francis thought that they were rather high, but concluded to approve them."

The trial will be resumed at 10 o'clock today.

Let the Good Work Go On!

Every decent citizen of Cleveland has reason to be proud of the manner in which the city law department and the police judges are vindicating the majesty of the law in the justice court outrages.

The city law department, under City Solicitor Baker, and with the able help of Assistant Prosecutor Levine, has shown and is showing the energy and ability which is called for in breaking up a system by which human vultures clothed with official powers have gorged their vile bodies on dollars stolen from the poor and unfortunate.

The police judges are nobly backing up this righteous crusade by showing no mercy in sentencing the convicted crooks.

So far every justice and constable convicted has been sentenced to the workhouse.

An outraged and aroused public will be satisfied with no less penalty in future convictions.

It has seemed at times as though no way could be found to bring these vultures to justice.

But City Solicitor Baker and his assistants found the way at last and the police judges are showing that they have the very highest regard for wholesome public sentiment.

Let the good work go on to the finish until every crooked justice official in this city is landed behind the walls of the workhouse!

SAME OLD CLAIM AGAIN.

Perpetual Franchise Allegation Again Put Forward by Cleveland Electric Railway.

Claims of a perpetual franchise for the operation of the Central avenue line were renewed by the Cleveland Electric Railway Co. yesterday through the filing of an amended bill in the United States circuit court in the case bearing on the Central avenue line. The bill is against the city and the Forest City Street Railway Co., and asks that the court issue a perpetual injunction restraining the city and the low fare company from taking possession of the Central avenue line. The bill is long.

There is a repetition of all claims that were set up in a sort of informal document filed months ago. The claim that there is no limitation of time to the grant under which the line is operated is specifically set up in two or three different and direct forms. In addition the old claim is renewed that the franchise on the entire line, taken as a whole, does not expire until 1913. It was in this case that Judge Tayler rendered his famous decision declaring that the franchise had expired. That decision was only temporary and the city has asked that it be made permanent. The bill was filed in connection with this petition on the part of the city.

City Solicitor Baker stated last evening that the only effect on the filing of an amended bill by the Cleveland Electric Railway Co. in the United States court in the Central avenue case yesterday, would be to delay the rendering of a final decree a few weeks.

PUT HIM ON THE GRILL.

Constable Monaghan Was Asked Some Questions by Solicitor Baker.

ACCUSED MAN WAS A CANDIDATE FOR J. P.

He Cannot Read or Write and Blames Associate for Mistakes in Papers.

BULLETIN.

After re-direct examinations of Constable Monaghan, charged with extortion, the defense rested at 2:15 p. m. Thursday.

Constable Wm. J. Monaghan, accused of extortion, was put on the grill Thursday by City Solicitor Baker in Judge Fiedler's police court.

Monaghan, though he cannot read or write, was a candidate for the nomination of justice of the peace.

The city solicitor's line of questioning was for the purpose of bringing out upon whom Monaghan relied for instructions in computing his bills of cost.

"In the Wetter-McIntyre case did you rely entirely on Hudson for the charges made?"

"I did."

"Did Hudson tell you of the Witter-McIntyre case and ask you to act as constable?"

"Yes."

"And he told you the papers would be served out of Francis' court, didn't he?"

"Yes."

Monaghan was shown the bond issued on the attachment.

THE SURETY ON THIS BOND, M. JONES, HAS NOT YET BEEN ESTABLISHED AS AN EXISTING PERSON.

Monaghan's signature—he can write his name—was compared to the M. Jones on the bond.

"Isn't it a fact that Hudson told you to sign the name M. Jones to this bond, and that you did so?" asked the city solicitor.

Monaghan denied that he signed the M. Jones to the bond.

"Isn't it a fact that it is customary for constables to sign fraudulent names to undertakings in attachments?"

Monaghan was not permitted to answer.

"Did you ever sign any name other than your own to any papers in an attachment proceeding?"

"No," said Monaghan.

BAKER TO DECIDE SOON.

Rights of City in Kenilworth Road and Erie Cemetery Questions to be Settled.

Two important opinions may be handed down by City Solicitor Baker this week. They have been asked for by President Springborn and Member Cocley of the board of public service.

One deals with the question of the right of the city to compel Euclid Heights property owners to reopen Kenilworth road, closed at the initiative of Gov. Herrick. Baker and Springborn will visit the locality for the purpose of investigating the situation.

The other decision will be a formal opinion as to the right of the city to use the Erie street cemetery land for purposes other than that of a burial ground.

BACK IN THE OLD TENT ONCE MORE

Mayor and Candidates Speak
at Formal Opening of Dem-
ocratic Campaign.

Cox's Aspirations and Boyd's
Figures Two of Main Topics
of Discussion.

At the formal opening of the Democratic campaign in Cleveland, in the mayor's tent, pitched at the corner of Pearl and Lorain streets, there was no imported talent to aid in drawing a crowd, there were no candidates for state office on hand, but the crowd was there just the same.

The Democratic committee had sent no notices to every club in the city to attend in order to assist in swelling the attendance. In fact, the first announcement of the meeting was not made until yesterday morning, and it was 2 o'clock in the afternoon before hand bills were distributed about the locality in which the meeting was held. The old tent, however, was filled to its capacity, and there was a crowd of over 2,000 persons on hand when Vice Mayor Charles W. Lapp, as chairman of the evening, called the assemblage to order.

Local issues were the topics of discussion by all speakers, except Mayor Johnson and City Solicitor Baker, with now and then a reference to the paramount issue of Coxism, which was dealt with in a fuller sense by the two above named speakers. Aside from the addresses by Johnson and Baker there were speeches by City Auditor Maugan, County Clerk Soren, W. J. Springborn, F. W. Ward, candidate for state senator; Harris R. Cooley and Peter Witt, who delivered a picture talk.

"He's little, but he's sweet," was the greeting given City Solicitor Baker as he was introduced. Baker said that hitherto in political campaigns he had been enabled to avoid personalities and he said he hoped to continue to adhere to this program, but he said that he had never forgotten since he became city solicitor that it was through the efforts of Mayor Johnson that he secured the office and that to him and the people of the city he owed unremitting fidelity. He then took up charges made by Boyd against the city solicitor's office.

"Mr. Boyd has made the office the center of his attacks," said he. "He has charged that we made mistakes about the tunnel contract. The charge is not specific, but as a lawyer I do not hesitate to say that Boyd is as mistaken in the law as Mayor Johnson has proved him to be in his facts."

He then took up the larger issues of the campaign and told of the history of the great moral wave that is sweeping the country, with its center now over Ohio. The start was some four or five years ago when Mayor Johnson announced his slogan to be home rule and just taxation, he said, and continued:

"The wave grew. The truth always grows. The movement has gathered head until now you see a governor, Gov. Herrick of Ohio, traveling over a state trying to gather his broken and scattered, trying to bring them together again, trying to detract from what is uppermost in their minds, namely, the dominance of 'Boss' Cox in the reigning political party of the state."

SPLIT HAIRS, SAYS BAKER.

CITY SOLICITOR SHARPLY
CRITICISES MEM-
BERS OF THE HEALTH
BOARD.

Sees No Reason to Discon-
tinue Consumption
Clinic.

City Solicitor Baker Monday sharply criticised the efforts of the Board of Health to check the work of Dr. Friedrich's consumption clinic. He called its actions "hair-splitting."

"If you were a doctor of medicine, called to attend a dying man, and found that he needed a crust of bread instead of a quinine pill, would you refuse him aid because bread crust is a food and not a medicine?" said Baker, in a statement to a "Press" reporter.

"It is hair-splitting of the most senseless sort," he continued. "It seems to me that it is duty of the Board of Health to employ every means in its power to help the poor. And, though I have not yet had time to consider thoroughly the question of the legality of the clinic bill which Dr. Friedrich has asked me to determine, I CAN SEE NOW NO REASON TO BELIEVE THAT THE CLINIC IS NOT LEGALLY CONDUCTED UNDER THE JURISDICTION OF THE DEPARTMENT OF HEALTH."

WILL BE HEARD NOV. 4.

Date is Set by Judge Tayler for
Central Avenue Franchise Case.

Nov. 4 has been set as the date on which the final hearing will take place on the Central avenue franchise case before Judge Tayler.

Yesterday City Solicitor Baker and Judge Schwan appeared in court and asked for the fixing of a date. Baker claimed that the Cleveland Electric Railway Co. was two days late in filing an amended petition, but waived that and asked that the city be allowed to file an amended petition.

Wants Slots Up at Once.

City Solicitor Newton D. Baker asked common pleas court yesterday to advance the cable suit for immediate hearing. He alleges that cable slots on Superior and Water streets and Payne avenues are a menace to health and safety.

Judge Tayler granted Baker's request and also set the date for the final hearing.

SAYS BOARD MAY GIVE EMULSIONS

Solicitor Baker Upholds Le-
gality of Consumptive
Clinic.

City Solicitor Baker replied Tuesday to the request of Health Officer Friedrich for an opinion on the legality of administering emulsions of fats to the consumptive patients at the expense of the health department. Baker upheld the contention that the emulsions can be given those who are unable to pay.

Baker says the Board of Health is empowered to appoint ward physicians to "care for the sick poor," and that if the emulsions are necessary they can be supplied free without encroaching on the field of the relief department.

CITY WILL ANSWER.

The Central-av franchise was up again before Judge Tayler, of the United States circuit court, Saturday. City Solicitor Baker represented the city and Judge Sanders the Concon.

Baker claimed that the Concon was two days late filing the amended petition, but he waived that and asked that the city be allowed to file an answer to the amended petition. He also asked that the court set a day for the final hearing in order that it might be got out of the way.

Judge Tayler granted leave for the filing of an answer and fixed Saturday, Nov. 4, as the day for the final hearing.

'T WAS SUCH A FIGHT AS WAS SEEN IN THE GOOD OLD DAYS

Mayor Tom Scored First Blood When He Stung Mose Boyd on the Mustach--Decision Didn't Please the Crowd.



Staff Special.

At the Ringside, Grays' Armory, Oct. 5.—After five rounds of terrific fighting the Mayor Tom-Mose Boyd battle for the heavyweight championship was declared a draw.

A moment after Referee Collister had made his decision the armory was filled with a howling mob of 4368 disappointed spectators; 2184 angry because Mayor Tom had not been declared the winner, 2184 in the same frenzied state of mind because Boyd had not got the decision.

Although the decision was unsatisfactory, no one, from the sport who had a \$50 seat at the ringside to the boy who peeked through a window, could complain that he did not get his money's worth.

It was a terrific fight; a bruising battle from start to finish. It reminded the writer of the good old days when he saw Heenan and Sayers fight round after round with gloves cut off at the knuckles.

The Kilrain and Sullivan battle was perhaps more gory, but the writer thinks that in many ways the mill Wednesday night was more interesting. Some very scientific

Blows Were Landed and some well-steamed jolts were skillfully parried, and the crowd liked it—all but the decision.

The fighters came to the armory in an automobile. They walked directly up the aisle and jumped into the arena. Boyd hopped nimbly over the ropes, while Mayor Tom climbed leisurely through the hole which Water Boy Gongwer made for him.

Referee Collister at once stepped into the ring and read the articles of

agreement. They were applauded as satisfactory, and men with bunches of green money in their fists ran up and down the aisles making bets. Chief Kohler was there with a squad of 50 police. He kept the crowd in

order and prohibited any three-shell men from selling their wares.

Carl Nau was announced as time-keeper. Mose said he would fight without seconds. This caused some excitement. Tom said his bottle-holders would be Server Springborn and Solicitor Baker.

Time was called promptly at 8 p. m.

Round 1—Mayor Tom sprang nimbly to the center of the squared circle. He leaned over and looked

Mose in the Face. He feinted with his right and landed a terrific jolt on Boyd's ear. Boyd staggered. Tom did some clever foot work and landed three heavy

body blows. Boyd gave way, Tom following his advantage. His weight told, and despite Mose's great reach the lanky lawyer seemed unable to get beyond the mayor's guard. Tom was smiling. He fainted with his left twice, but did not land. He gave way, and Boyd sought to follow him. He did not suspect a ruse, and left himself open. Tom smiled. He turned to Baker and murmured "Cox," and landed a terrific blow on Boyd's solar plexus. Boyd went down with a thud. Time. Mayor Tom's round.

Round 2—Mose came up smiling. He spent the interval in his overcoat, that fully covered his red trunks. He seemed to have recovered from the Cox blow. He was vicious in his attack from the start. With a growl that sounded like "graft" and a snarl like "machine," he

Broke Down Tom's Guard

and landed three stinging blows on face and neck. Tom continued to smile. Boyd retreated, took a glance at a list of city hall salaries and swung right and left into Tom's stomach. Tom was nearly all in. The round seemed interminable. He tried to smile, and when Mose side-stepped the Cox issue and whanged in a stinging low fare jolt Tom went to his knees. Time. Boyd's round.

Round 3—Tom showed signs of weariness and time was called. Baker slipped up behind him and gave him a whispered word of advice. With a smile of gratitude, Tom uppercut Boyd on the mustach, bringing the ruby first blood. The blow drove three hairs into Tom's fist, but he did not seem to mind the pain. With a shout he poked Boyd playfully in the ribs and then soaked home a

Rouser on the Jaw,

saying as he did so: "There goes Cox again." Time. Tom's round.

Round 4—Boyd sparred for wind. Tom's last blow had left a bad impression. There was considerable foot work and few blows. Boyd seemed to gain strength as the round waned. He landed a stomach blow just as the bell sounded. Boyd's round.

Round 5—Very tame round. Tom tried to repeat his trick of the first round but Mose warded off the full force of the blow. Tom was able to get in three or four short arm blows. The bell sounded and the referee called "draw."

MORE RED TAPE TO BE UNWOUND.

Baker is Asked for an Opinion in the Tuberculosis Controversy.

Whether the consumption clinic comes within the authority of the Board of Health and whether the \$100 bill contracted by Dr. Friedrich for the emulsion used is a legal charge upon the board are to be determined by the city solicitor.

CHALLENGE OVERRULED

The defense's challenge to the array of the jury in the case of Constables Monaghan and Hudson and Justice Francis, charged with extortion, was overruled by Police Judge Fiedler Tuesday afternoon.

The impaneling of the jury was then proceeded with. Great difficulty was experienced in selecting the 12 men, for the reason that the majority admitted they had formed an opinion regarding the case. City Solicitor Baker questioned each prospective juror keenly as to his connection with politics and political parties.

The disagreement of the jury in the first trial of the case was due to the firmness with which one juror, Herbert Grant, a member of the Republican executive committee, held out for acquittal.

Mayor Tom, City Clerk Witt and City Auditor Madigan all testified as to the drawing of the names of the jurors. Witt, they said, selected 200 names by taking eight from each ward. The names were then put into the jury wheel in their presence. None but Witt compared the names put into the wheel with the list prepared. The others said they took Witt's word that everything was correct and in accordance with law.

The defense held that because the names had not been drawn jointly by Witt, Madigan and Mayor Tom, instead of having been merely approved by the two latter, the order of the court and the city ordinance had been violated and the jury was illegal.

This was the defense's second objection on the ground of alleged illegalities in connection with the drawing of jurors. When the first was made the state waived the matter and consented to a re-impementment.

Saturday Friedrich made formal request upon Solicitor Baker for an opinion. The Board of Health is now willing to pay the bill, but it has fallen back upon the technicality and the assertion has been made that as the emulsion is really a food and not a medicine the treatment given patients at the clinic is really not within the province of the Board of Health.

Friedrich contends that since he has demonstrated that the treatment is beneficial to the health of the city the clinic is legally a part of the work of the Board of Health, which ought therefore to pay the bill he has contracted. But if the formal decision is contrary the clinic will still go on and the Board of Health has so far switched its view of the matter that arrangements for the continuance can probably be made at public expense.

MAYOR WILL BE PUT ON STAND.

City Officials Will Testify in Trial of Francis, Monaghan and Hudson.

Mayor Tom was put on the stand at 1:45 p. m.

Mayor Tom, City Clerk Witt and City Auditor Madigan were called as witnesses Tuesday in the state's case against Justice of the Peace Francis, Constable Monaghan and Special Constable Hudson. They will testify Tuesday afternoon.

In Judge Fiedler's police court Tuesday morning the defense challenged the array of the second jury list in the second trial. The three city officials will testify as to the array.

The jury disagreed on the first trial of 10 days' duration. It was "hung" by one man, Herbert Grant, a member of the Republican executive committee.

The defense claims the list was drawn contrary to law; that it was not drawn according to the order of the court; that the law under which the jury was drawn is unconstitutional; that the list was not drawn according to the city ordinance.

"The defense ought to make a preliminary statement of its specific objections and we might possibly agree and save valuable time," said City Solicitor Baker.

"This case has dragged along until it has become a serious impediment to other pending city cases. The holding of this jury is also becoming a needlessly heavy burden of cost to the county."

The defense refused to make the statement asked for by Baker and insisted that Mayor Tom, the city clerk and city auditor be called as witnesses.

Attorneys for Francis and Hudson asked for a continuance until after funeral of Chas. I. York, who died Monday. York was associate counsel for Hudson. Judge Fiedler denied the motion.

The defense also moved that the case be transferred to Judge Whelan's court.

BOYD FACES A HOPELESS TASK

Mayor Says He is Trying to
Prove Graft Exists Where
It is Unknown.

Republican Rival Given Credit
for Displaying Courage
in Attempt.

Mayor Johnson discussed his debates with W. H. Boyd at the Democratic tent meeting, Gordon and Clark avenues, last night.

The mayor declared them to be a profitable sort of entertainment and said that he had tried to have some held on the West Side, but that since it had been agreed that none should be held in the second or third stories of a building and that "Boyd shies at a tent," it seemed that the only available place was the central part of the city.

The reference to Boyd aroused a lively interest and some remarks from the audience, one of which was to the effect that the mayor was pulling Boyd out of a hole.

"I'm having no trouble about that," said the mayor. "That is one thing I like about Boyd. He is not afraid to get upon a public platform and discuss issues. I am glad of the opportunity to go into a debate so that we may give an accounting of our administration to the people. It gives an opportunity for our opponents to come onto the platform and point out our mistakes.

"You know before we began debating Boyd told of what he was going to do; that he had divers thunderbolts that he would let loose, in fact that he would make me so much ashamed of myself that I would be compelled to leave town. I am here yet. His thunderbolts didn't seem to bolt. He has been saying so much about graft, and that he would place his hand upon the man who was responsible when he got aim on the platform, that I expected him every night to place his hand on my shoulder, because, of course, I am the responsible man, and say, 'Here is the grafter,' but he hasn't done it yet. He has been trying to show that there was graft by the increase in the payrolls and the allegation that we have put on hundreds of extra men near election time."

The mayor told of the decrease in the pay rolls of August and September, and continued:

"One of his thunderbolts was in holding back those two months. But since we showed them he hasn't had a word to say about the street department." The park department pay roll was then taken up and after detailing how Boyd had charged an interest sum of \$100,000 against the pay roll, he said:

"That expert accountant of his forged him a thunderbolt, but it didn't bolt." The tunnel question was dealt with, and the mayor, in commenting upon advice of his friends that it was useless for him to debate with Boyd, said:

"I ought, as mayor, to stand on the platform and defend the administration against anyone who attacks it. The trouble with Mr. Boyd is that he is trying to prove graft and corruption against this administration and it is not there to prove. I consider the debates a good thing, a good thing for the people, bringing before you as they do the ablest attacks that can be made on your present administration by the best of the opposition."

He then took up the local issues of the battle and made a most vigorous address, frequently applauded. City Solicitor Baker, one of the speakers, who preceded Mayor Johnson made perhaps the ablest address of the evening, devoting his efforts to an attack on Coxism, Herrick's administration and the records of the present and preceding legislatures. He paralleled the existing situation in the management of the Republican party with the triumvirate that existed in old Roman times after the assassination of Julius Caesar. He told how Augustus Caesar, big and strong, vain Mark Anthony, and Lepidus, weak and vacillating, formed a triumvirate to divide between themselves the whole world.

Caesar was the man who proposed, while Anthony frittered away his time in permitting Antony to rule, Lepidus being weak and answering "me too" to all proposals of Caesar. Baker described Cox as the Augustus Caesar of the present political management of Republican party affairs in Ohio, Senator Dick as Anthony and Gov. Herrick as Lepidus.

SHOOK HANDS IN LOBBY.

Informal Reception to John M. Pattison at The Hollenden Last Night.

An informal reception was held for Mr. Pattison in the lobby of The Hollenden last evening.

He arrived shortly before 11 o'clock and was escorted to the hotel by the committee in charge. Mayor Johnson and City Solicitor Baker met the candidate and congratulated him upon the prospects of his election.

"But I think your own prospects are flattering, mayor," said Mr. Pattison when the greetings were over. "I predict that you win out here by 10,000 majority."

"You'll get twice as large a majority here," returned the mayor.

Mayor Johnson and Mr. Pattison had a conference in Mr. Pattison's room for a few minutes. Solicitor Baker was present and one or two others. After the conference the reception was continued in the lobby and about seventy-five or 100 were introduced. At 11:30 the last of the reception committee had departed. Mr. Pattison was in the city just for the night and leaves this morning at 7:15 for New Philadelphia to attend the last of the county fairs.

KNOTTY SCHOOL QUESTION UP.

Can a teacher, not an authorized substitute, be paid for services rendered?

This question was submitted to City Solicitor Baker Wednesday by the school board. On Baker depends whether a teacher, who has waited since last May for her money, shall be paid.

During a storm last May, telephone connections between Kentucky school and Supt. Moulton's office were severed. A teacher failed to appear. The principal, being unable to ask Moulton for a substitute, called in a woman who lived nearby, who had once taught at Kentucky school, but who had since married.

This woman taught two days, as an accommodation to the principal. The principal thought she ought to be paid. No one seems willing to take the responsibility of paying her and to settle the matter the opinion of Baker has been sought.

ASKS DEFINITE GRAFT CHARGES

City Demands That Belt Line
Litigants Specify Any Cor-
ruption in Council.

Court Appealed to in Effort to
Clear Away Ambiguity
of Petition.

The charges made by the amended petition in the injunction suit against the Cleveland Short Line Railroad Co. are to be fought in court.

City Solicitor Baker filed a motion in common pleas court yesterday to require the plaintiff to make definite and certain that part of the pleading which alleges corruption in the city council.

The motion says that the plaintiff avers the council of the city was influenced to adopt and pass the belt line ordinance by "indirect and corrupt influence and considerations." In view of this the petition asks that the "plaintiff be required to state definitely and with certainty what member or members were influenced; by what indirect and corrupt influence and considerations; by whom said influences were executed; and from whom said corrupt consideration moved to such member or members of council."

BARNUM ACTED WITHIN HIS RIGHT

Solicitor Baker Finds School Architect Was Always Loyal to City.

Advises Him to Sever Official Connection With Concrete Company.

In an opinion to School Director Orr, City Solicitor Baker holds that School Architect Barnum was entirely within his rights in being stockholder and vice president of a company engaged in the manufacture of concrete building blocks which were used in connection with school buildings.

Baker's opinion suggests that the question presented to him was not a question of legal right but rather a question of official propriety.

"I am told that there are several companies making building blocks that would satisfy the requirements of the specifications," said Mr. Baker, "so that it is not possible to say that the specifications in question have in any direct way indicated that the use of the blocks manufactured by the company, with which Mr. Barnum is connected, is desired by him, or that any other block is excluded from the use by the contractor."

"In the performance of public work, where competition is enjoined by law, and where the duty of inspecting the performance, devolves upon designated public officers, it is of the utmost importance that every element and appearance of good faith and fairness should be preserved. This is true for the reason that public bodies secure better competition when the minds of the contractors are free from any thought of possible discrimination, either against them or in their favor. "For these reasons it seems to me that it would be wise for Mr. Barnum to resign any official position he may occupy in a company dealing in supplies likely to be used or permitted to be used in the construction of buildings under his supervision."

"This suggestion is made, not with any thought that the occupancy of such official position would in any way effect Mr. Barnum's judgment, but for the reason that contractors might be tempted to believe they could ingratiate themselves with Mr. Barnum and elude fair and painstaking inspection and supervision of their work at his hands, by availing themselves of the option which permitted them to use materials manufactured by the company of which he was an officer."

Mr. Baker stated that he found nothing in the papers presented to him which in the slightest degree reflects upon the entire propriety of Mr. Barnum's action.

School Architect Barnum has resigned his position as vice president of the Cuyahoga Concrete Stone Co.

TO INQUIRE AS TO COAL PURCHASES

Councilman Claims Safety Board Has Acted Contrary to Law.

Solicitor Baker Has Declined to Approve Payment of \$9,000.

Councilman Mangan is the author of a resolution presented to the council last night and adopted by that body requesting the board of public safety to report why purchases of coal have been made without competitive bidding and why, since purchases were made in this way, the bills for the coal, amounting in all to something like \$9,000, have not been paid.

The resolution recites that this coal has been purchased in this manner for six or seven months and that in being bought without competitive bidding it was contrary to law. Mangan in explaining the cause for the resolution said:

"I have been reliably informed that the safety board has been awarding coal orders without securing bids. According to law the board must advertise and grant a contract to the lowest bidder."

"I talked with City Solicitor Baker about the matter this afternoon and he told me that the facts stated are substantially true. He also expressed the opinion that the bills were just, but that he could not approve them for the reason that they are not legal. If the bills are illegal I think it proper for this council to know why the bills were contracted."

"I didn't suspect until tonight that the object of Mangan's call was political," said Solicitor Baker, as he arose to reply.

Baker then explained the situation. He said that the safety board claimed that it had been the universal practice to purchase coal in such manner and that after examining the very ambiguous and doubtful statute he advised that the board enter into contract. President Excell, he explained, differed from him as to the law or the wisdom of entering into contract and the board continued buying in the old way. Baker said that a plan for settlement was now on foot.

Mangan seemed to take umbrage at Baker's reference to politics and explained that he, in referring to politics, had meant that the board in distributing its orders among various dealers seemed to be playing politics.

City Solicitor Baker gave an eloquent address, dealing with various phases of the campaign.

BOYD WENT BACK ON HIS OLD PALS

Johnson, at Meeting, Refers to the Repudiation of McKissonism.

Baker Challenges Any Republican Lawyer to Debate.

Mayor Johnson made two political addresses last night and visited the Catholic clubhouse of St. Patrick's parish on Bridge street. The inspection of the clubhouse came first, and then the mayor visited the tent, pitched at the corner of Kentucky street and Waverly avenue. It was cold, bitterly cold, in the tent, but a crowd of several hundred was on hand.

City Solicitor Baker preceded the mayor in speaking. Baker's address was notable for a challenge issued to any Republican lawyer in the city. He defied anyone to point out a law passed by either of the last few legislatures that is in the interests or for the wishes and welfare of the people of the city, and asserted that nearly every law that was made a law was molded and drafted to fit the decrees and desires of the boss of Cincinnati to the end that he might perpetuate his power and may be some day make himself United States senator.

DARK TOTS WITH MAYOR.

Three Colored Children Whisk Out Euclid Avenue in Big Automobile.

The big "best mayor of the best governed city in the United States" hurried out of the city hall yesterday afternoon to climb into his big red auto that was waiting at the curb. With the mayor was Solicitor Newton D. Baker and Tax Inquisitor Colver and as the three hurried along they heard someone call.

"Hello, Mr. Johnson," Solicitor Baker glanced up the street and saw nothing. Tax Inquisitor Colver looked across the street, but nothing was in sight. Mayor Johnson turned his attention down street and at first he, too, was unable to find any source for the greeting. Presently it was repeated.

"Hello, Mr. Johnson!" This time the voice was close at hand and when the mayor looked once more he noticed three small negro children, two boys and a girl, who stood grinning in an amiable peevish row.

"Hello, little ones," said the mayor, "hardly noticed you at first. What's your names?"

"Why, I's jes' me. I's Florence," piped up the girl, while the brothers grinned their approval.

"Bless your hearts, so it is," said the mayor. "My butler's children and I didn't recognize you at first."

"Come on, bubbles," he continued as he whisked all three into the big machine and nodded to the chauffeur to proceed.

Up the crowded thoroughfares along the most aristocratic street in the city rode the "best mayor of the best city" and as his guests rode the city solicitor, the city tax inquisitor and three immensely pleased and gratefully grinning youngsters of dusky hue.

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